OFFICE OF
THE
UNITED STATES TRADE REPRESENTATIVE

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TRADE POLICY STAFF COMMITTEE

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PROPOSED NEGOTIATIONS WITH SOUTHERN AFRICA
PUBLIC HEARING

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MONDAY
DECEMBER 16, 2002

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The Public Hearing convened in Conference Rooms 1&2 in the USTR Annex, at 1724 F Street, N.W., Washington, D.C., at 10:36 a.m., Carmen Suro-Bredie,Chairperson, presiding.

PRESENT:

OFFICE OF THE U.S. TRADE REPRESENTATIVE

CARMEN SURO-BREDIE, Chairperson
CONNIE HAMILTON
CHRIS MOORE
JOSETTE SHINER
GLORIA BLUE, Executive Secretary

U.S. DEPARTMENT OF AGRICULTURE

ERIC HANSEN

U.S. DEPARTMENT OF COMMERCE

ALICIA ROBINSON-MORGAN

PRESENT: (Continuing)

U.S. DEPARTMENT OF LABOR

BETSY WHITE

U.S. DEPARTMENT OF STATE

COLLEEN HYLAND

U.S. DEPARTMENT OF TREASURY

CARMEN SAN MIGUEL

U.S. ENVIRONMENTAL PROTECTION AGENCY

CHRISTINA MERCURIO
JOHN KARHNAK

U.S. INTERNATIONAL TRADE COMMISSION

JOANNA BONARRIVA

I N D E X

AGENDA ITEM PAGE

Witnesses: (Continuing)

P R O C E E D I N G S

(10:36 a.m.)

CHAIRPERSON SURO-BREDIE: This hearing will come to order. The hearing is being conducted by the Trade Policy Staff Committee, an interagency body chaired by the Office of the U.S. Trade Representative.

In addition to USTR, there are representatives from the Departments of Agriculture, Commerce, State, Labor, and Treasury, the Environmental Protection Agency, and the U.S. International Trade Commission.

The ITC will conduct their own set of hearings for the Southern African Customs Union, and their participation in this hearing is in connection with their role on the Trade Policy Staff Committee.

The subject of this hearing is the proposed negotiation of a free trade area with the member countries of the Southern African Customs Union, SACU. The member countries of SACU are Botswana, Lesoto, Namibia, South Africa, and Swaziland.

The TPSC is seeking public comment to assist the United States Trade Representative in amplifying and clarifying the negotiating objectives for the proposed agreement, and to provide advice on how specific goods and services and other matters should be treated under the proposed agreement.

In addition to the testimony we will hear today, interested persons, including persons who participate in the hearing, may send written comments until noon, December 20th, 2002.

Written comments may include rebuttal points, demonstrating errors of fact or analysis not pointed out in the hearing. The first page of written comments must specify the subject matter, including as applicable, the product or products with HTSUS numbers or service sectors.

Under Section 2104 of the Bipartisan Trade Promotion Authority Act of 2002, known as the TPA Act, for agreements that will be approved and implemented through TPA procedures the President must provide the Congress with at least 90 days written notice of his intent to enter into negotiations, and must identify the specific objectives for the negotiations.

Before and after the submission of this notice the President must consult with appropriate Congressional committees and the Congressional Oversight Group regarding the negotiations.

Under the Trade Act of 1974, as amended, the President must afford interested persons an opportunity to present their views regarding any matter relevant to any proposed agreement, must design an agency or inter-agency committee to hold a public hearing regarding any proposed agreement, and seek the advice of the U.S. International Trade Commission regarding the probable economic efforts on U.S. industries and consumers of the removal of tariffs and non-tariff barriers on imports pursuant to any proposed agreement.

In November of 2002, after consulting with relevant Congressional committees and the Congressional Oversight Group, the USTR notified the Congress that the President intends to initiate free trade agreement negotiations with member countries of the Southern African Customs Union and identified specific objectives for the negotiations.

In addition, the USTR requested the ITC's probable economic effects advice. The ITC intends to provide this advice in April 2003.

To assist the Administration as it continues to develop its negotiating objectives for the proposed agreement, the Chairman of the TPSC has invited written comments and/or oral testimony of interested persons at a public hearing.

Comments and testimony may address the reduction or elimination of tariffs or non-tariff barriers on any articles provided for in the Harmonized Tariff Schedule of the United States that are products of the SACU member Countries, any concession which would be sought by the United States, or any other matter relevant to the proposed agreement.

The TPSC invites comments and testimony on all of these matters, and in particular seeks comments and testimony addressed to about 10 items that are in my written testimony, and I will just refer briefly to a few.

General and commodity-specific negotiating objectives for the proposed agreement. The economic costs and benefits to U.S. producers and consumers of the removal of tariffs and non-tariff barriers.

The treatment of specific goods, adequacy of customs measures, existing sanitary and phytosanity measures, proposals for service sectors to be addressed, relevant trade-related intellectual property rights, relevant investment issues that should be addressed, and government procurement issues, and environment and labor issues that should be addressed.

Comments identifying as present or potential trade barriers laws or regulations

that are not primarily trade-related should address the economic, political, and social objectives of such regulations, and the degree to which they discriminate against producers of the other country.

At a later date the USTR, through the TPSC, will publish notice of reviews regarding the possible environmental effects of the proposed agreement, and the scope of the U.S. environmental review of the proposed agreement, and the impact of the proposed agreement on U.S. employment and labor markets.

Now, I would like to turn to Josette Shiner, Associate U.S. Trade Representative, for additional remarks, and following this, the panel members will introduce themselves, and then we will hear from the first witness. Thank you.

MS. SHINER: Thank you, Carmen. It is a pleasure to be here with you this morning, and to begin a dialogue on our proposed free trade agreement with the Southern African Customs Union countries.

With this FTA, President Bush and Ambassador Zoellick believe that we have a unique opportunity to craft a ground breaking agreement that will serve as a model for similar efforts with the developing world.

I look forward to hearing your thoughts today on how we can achieve this for the United States and for Southern Africa. Before we begin, I want to say a special welcome to Ambassador Kyerematen. Thank you for joining us.

You have been a very strong supporter of our trade relations between the United States and Africa. We are pursuing free trade with Southern Africa and other developing countries and regions around the world because it is an American strategic interest to do so.

This FTA is a vital part of our broader effort to drive global trade liberalization, to create new commercial opportunities for United States companies, farmers, and workers, in the fast growing regions of the world, and to support the efforts of developing countries that are seeking to move into the mainstream of the global economy.

And to close the painful divide between north and south by broadening the circle of nations that can benefit from international trade. Developing countries are essential partners in our efforts to bring down global trade barriers.

Nearly three-quarters of the WTO members are developing countries. Bilateral and regional FTAs, like this one, create valuable competition and liberalization. They strengthen our allies, and build pressure for reform and change in larger markets like Europe, Japan, India, and Brazil.

FTAs can also serve as laboratories for liberalization, and models for global negotiations by establishing new and creative disciplines, especially to deal with fresher topics on globalization agenda like e-commerce, intellectual property in the digital economy, labor and environmental cooperation, and expanding services trade.

Moreover, by working more intensively with developing countries on FTAs, or even in preparing for them, the United States is finding that we are strengthening their capabilities to engage in regional and global negotiations by helping to build capacity in these areas.

In our FTA with Southern Africa, for example, we plan to closely target capacity building efforts to help these nations overcome obstacles that hinder effective participation in trade negotiations.

As a result, we hope that our developing world FTA partners will help forge a new global coalition in support of open markets by expanding their stake in the global trading system.

A free trade agreement between the United States and Southern African countries will also deliver immediate and tangible gains for our private sector and individuals.

It will lower higher regional tariffs, and give U.S. firms preferential access to our largest export market in the sub-Sahara and Africa, worth more than $3.1 billion last year.

It will also provide an opportunity to address longstanding regulatory barriers, and to help level the playing field in areas where U.S. exporters were disadvantaged by the European Union's free trade agreement with South Africa.

For Southern Africa, an FTA promises to strengthen national economic reform, and develop efforts, by locking in access to the U.S. market, encouraging greater foreign direct investment, promoting regional integration, and lowering perceived investment risks.

The five Southern African countries are

among the strongest economic reformers on the continent. They have made significant progress in their own regional integration efforts, and are the leading beneficiaries of AGOA.

In 2001, they collectively were the number one U.S. supplier of non-fuel goods under this program, accounting for more than a quarter of total non-fuel imports. They have seen the position role that trade can play in promotion economic growth and development.

Now they are taking an important step towards open markets and deeper commercial engagement with the United States. We hope to begin that step by launching formal negotiations in April of next year.

Ambassador Zoellick has set an ambitious goal for completing negotiations by December of 2004. As we move forward with this historic initiative, we look forward to working with the Southern African countries, with Members of Congress, and with all of you.

No matter how successful an FTA and the broader U.S. trade agenda can only provide a framework for progress. There will be business people, workers, civil society, and others that will do the hard work to change the world.

By harnessing competition and openness, to improve productivity by investing in new markets, and by adopting a long term vision that recognizes the essential link between trade and prosperity. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you very much.

MS. SHINER: I just wanted to recognize, as I believe we have representatives of the Embassies of South Africa, Botswana, and Lesotho here. If you would just identify yourselves, and welcome.

CHAIRPERSON SURO-BREDIE: Thank you very much for coming. We will now have the panel introduce themselves, starting with the Department of Commerce.

MS. ROBINSON-MORGAN: Good morning. My name is Alicia Robinson-Morgan, and I am with the U.S. Department of Commerce, Office of Africa.

MS. SAN MIGUEL: Carmen San Miguel, Department of the Treasury.

MS. HYLAND: I am Carmen Hyland, and I am from the Department of State.

MR. MOORE: I am Chris Moore, and I am with the Office of the U.S. Trade Representative, with the Office of Africa.

MS. HAMILTON: I am Connie Hamilton, senior director for Africa at the USTR.

CHAIRPERSON SURO-BREDIE: I am Carmen Suro-Bredie, the Chair of the Trade Policy Staff Committee.

MR. HANSEN: I am Erik Hansen, and I am with the U.S. Department of Agriculture, and specifically the International Trade Policy Division.

MS. MERCURIO: I am Christina Mercurio, and I am with the U.S. Environmental Protection Agency, Office of International Affairs.

MS. BONARRIVA: And I am Joanna Bonarriva, from the U.S. International Trade Commission.

CHAIRPERSON SURO-BREDIE: Now, I think we may have a pause because I don't believe that our first witness is here yet. Is that correct? Is Mr. Vastine here yet? Are any other witnesses in the audience? Yes. Thank you so much for you bravery.

MR. SAMET: It kind of ruins my strategy.

CHAIRPERSON SURO-BREDIE: Thank you so much. You may proceed. Please identify yourself since we are taking you out of order, and thank you again for your kindness.

MR. SAMET: Thank you, Madam Chair. My name is Andrew Samet, and I am with the law firm of Sandler, Travis and Rosenberg, and I am here on behalf of the Association of Food Industries.

The Association of Food Industries appreciates the opportunity to provide this testimony regarding free trade agreement negotiations with the countries of the Southern African Customs Union.

AFI is a trade association of over 200 food import companies based in Neptune, New Jersey. We strongly urge that a free trade agreement immediately eliminate all tariffs under Chapter 20 of the Harmonized Tariff Schedule on Imported Canned Fruit and Vegetable Products from the countries of the Southern African Customs Union.

Our recommendation is based upon the

following considerations. First, we believe that the immediate removal of the tariffs would benefit U.S. consumers who face significant tariffs on a number of imported items from South Africa, including, for example, tariffs of 29.8 percent on canned apricots, 17 percent on canned peaches, and 14.9 percent on canned mixed fruit.

Second, the immediate elimination of all tariffs under Chapter 20 would enhance the existing incentive under AGOA for AFI companies to build trade relations with the countries of SACU.

Most items under Chapter 20 have been given tariff-free preferences under AGOA, and those items should continue to receive immediate tariff-free entry under an FTA.

The importance of such tariff entries made clear by a recent proposal to remove AGOA eligibility for canned pears ostensibly because imports from South Africa, although still very modest in total trade, and as a percentage of U.S. consumption, had increased under the tariff preference provided by AGOA.

This recent effort to withdraw the benefit has sent a strong negative message to both African and U.S. companies that any success under AGOA, however modest, could be undone by having eligibility withdrawn.

So it is even more critical that the FTA lock in the immediate tariff free elimination of all Chapter 20 articles, including for canned apricots, canned peaches, and mixed fruits.

In the canned fruit area, South Africa competes with other larger economies that supply the U.S. market, including China, Australia, Spain, Greece, and Canada.

For the most part the elimination of tariffs on canned fruit items only permit South Africa the opportunity to compete more effectively against those other foreign suppliers for the share of the market taken by imports. Most of these other suppliers have better geographic proximity and lower freight costs to serve the U.S. market than does South Africa.

Third, imports from South Africa represent a very modest, and indeed, negligible share of total

U.S. canned fruit consumption, and so the immediate elimination of all tariffs on South Africa's products would have virtually no impact on sales or prices for U.S. producers.

For overall imports under Chapter 20, South Africa was the 17th largest supplier in 2001 providing $23 million in imports out of a total of $2.6 billion, or less than 1 percent of the total.

Moreover, there is no clear upward trend. Between 1987 and 2001, the average amount of imports from South Africa was $25 million. On the key items excluded from AGOA eligibility that should always receive immediate tariff-free entry under an FTA, the picture is much the same.

Canned apricots, although South Africa is the largest single supplier, total imports were only $369,000 in 2001, and for the first 9 months of 2002 they are down slightly from the pace of last year.

Total imports from all sources were only $687,000 in 2001. For canned peaches during the first 9 months of 2002, imports totaled $32 million, with South Africa supplying only 10 percent of that amount, or $3.2 million. Greece accounted for over $20 million.

For canned mixed fruit, the total imports for 2001 were about $34 million, with South Africa only supplying one million. Canada and Mexico supply about 75 percent of the total. Other suppliers larger than South Africa for the first 9 months of 2001 were Greece, China, and Spain.

Fourth, the removal of duties on projects from South Africa immediately under the FTA would allow South Africa to strengthen its position in the competitive U.S. market largely in comparison to other foreign suppliers.

Given variability in weather production and inventories, there will continue to be some amount of imports, just as U.S. canners continue to export at modest levels roughly equivalent to the level of imports.

At the same time constraints on suitable land and water resources make any threat of large increases in South African exports to the U.S. market highly unlikely.

The June 2001 U.S. Department of Agriculture Competitor Reporter on South Africa stated with regard to deciduous fruit production that because South Africa faces a general shortage of water and much of their agricultural produce is grown under some level of irrigation, expectations for large increases in production are non-existent.

Indeed, in October, the U.S. Department of Agriculture issued a report indicating that due to weather conditions canned deciduous fruit production in South Africa for calendar year 2002 is likely to be down 12 percent from a year earlier.

In conclusion, the AFI supports the views of the U.S. Trade Representative Zoellick highlighted in speeches that he gave during his trip to Africa earlier this year when he discussed the DOHA agenda and the SACU FTA.

In a speech in Kenya, Ambassador Zoellick emphasized that opening new markets to Africa's farm exports could do much to counter poverty throughout the continent.

He cited the example of AGOA to the South

African food processing firm that grew from four employees to 45 selling sugar-free fruit bars to a California company.

AFI is of the strong view that the immediate elimination of tariffs under an FDA on all articles under Chapter 20 would help create more such success stories, and would be in the interests of U.S. consumers who would create a stronger free trade agreement. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Samet. It was Henry James who said the first Christians gets the hungriest lions, and we will be very, very kind to you since you helped us by going first. The first question will be asked by the Department of Agriculture.

MR. HANSEN: Yes. Thank you. My question is would imports compete with other foreign suppliers, such as the EU, or would they compete mostly with U.S. domestic suppliers?

MR. SAMET: I think our view -- and we represent companies that import these products, not only from South Africa, but from elsewhere, is that they largely compete with imports from other countries.

If South Africa is in competition for the import share, then that import share is likely to go to another supplying country. There is always going to be a certain percentage of imports.

MR. HANSEN: Thank you.

CHAIRPERSON SURO-BREDIE: The next question will be asked by the International Trade Commission.

MS. BONARRIVA: You mentioned that the U.S. consumer will benefit from duty-free access of certain canned fruit products from South Africa. Do you have any specific data that quantifies the benefits?

MR. SAMET: Well, I think I listed three tariff items in here that were excluded from IGOA eligibility, which you are can are fairly how tariffs, almost 30 percent on canned apricots.

So the removal of that tariff obviously would provide some benefit to the U.S. consumers that would have access to that lower price of imported product.

CHAIRPERSON SURO-BREDIE: The Department of Commerce.

MS. ROBINSON-MORGAN: The International Trade Commission found that the U.S. canned fruit industry is import sensitive, and would be negatively impacted by duty-free AGOA eligibility. How do you respond to this finding?

MR. SAMET: I think they may have reached -- I don't know the specific finding that you are looking at, but in terms of certain categories that were excluded, those were listed.

I think that you need to look at the data to determine is it import sensitive to the extent that any level of potential increased access for South Africa is likely to have a negative impact.

I don't think that is the case. We know as we just talked about that South Africa mostly just competes with other foreign countries exporting to the United States for that market share that goes to imports.

So it is not like it would be the South

African product, and it is likely to go to one of the other supplying countries. I think that is the main point that I would say. The second point would be that there is as I said a limit, a significant limitation on the ability of South Africa to increase its production anyway.

So FTA in this area is likely to help South Africa to a certain extent, but it is not going to be a large volume in terms of the overall U.S. consumption. It will be large in the South African context, but not in the context of the U.S. overall market.

CHAIRPERSON SURO-BREDIE: Does anyone else have anything? If not, thank you very much, Mr. Samet. Now I believe that we are still missing our first witness, and are there any other people who will be testifying later in the audience that would like to testify now? No?

If not, then we are going to unfortunately have to adjourn for 15 minutes until 11:15, when we are sure to have our first witness to testify, and my apologies to the audience. But that is what we will have to do. We will meet again at 11:15.

(Whereupon, at 11:03 a.m., the public hearing was recessed and resumed at 11:16 a.m.)

CHAIRPERSON SURO-BREDIE: This hearing will come to order. Our next witness is Mr. Robert Vastine, President of the Coalition of Service Industries. Welcome.

MR. VASTINE: Thank you very much, Madam Chair. It is a pleasure to be here to talk a little bit about services. I see some new faces or many new faces, and one of the reasons that I enjoy testifying here and appearing here is that each time there are new faces behind the table, and it is a chance to explain a little bit about CSI and about services.

The last time, Madam Chair, you reminded me that some people might not know what AFORA (phonetic) is.

CHAIRPERSON SURO-BREDIE: Yes.

MR. VASTINE: And so I will take this opportunity I guess to as well discuss some of those issues. First of all, CSI is a coalition representing very broadly every element of the U.S. service economy, except for, let's say, the personal service sector and retailing.

We hope to reencompass the retailers in our membership, but apart from that, we represent travel and tourism, which is the biggest sector of the U.S. services export/import record, as well as financial services, like insurance and telecommunications, and banking, and information technology, and express delivery, maritime shipping, et cetera.

Somebody once described a service as something that will fall on your foot and not hurt. The economic definition, the strict definition, is much more complex than that, and really not very helpful. But the important thing is that services is by far the largest percentage or portion of our economy.

It accounts for 80 percent of our economy, as well as 80 percent of U.S. employment. That is well above most or every other country in the world. Maybe Hong Kong claims to be a little higher, at roughly 90 percent, which in itself is an interesting story. but we are not going to go there right now.

In services, we are very competitive. We say that we are the most competitive country in the world in services. The European Union says it is, but only if you combine all the members of the European Union.

As a single country, the United States is head and shoulders the best competitor in the world in services, and the fruit of that is that we have a $78 billion surplus last year, I believe, in services. That surplus is declining, however, partly because of the effects, the lasting effects of international events on travel and tourism.

We need to -- and because we still face a very large set of barriers to our trade and services throughout the world. Now, trade and services is distinguished by a very complex set of -- I should not introduce this as that complex, but a set of definitions that help one understand what it is.

Trade and services according to the general agreement on trade and services, and that is the WTO legal framework under which the services are dealt with in the WTO, provides for four modes of supply of services.

These modes of supply are cross-border delivery and services. That's when I sell something to -- I can see a marine insurance policy to somebody in Singapore under the new agreement from New York. I don't have to go there.

The second is consumption abroad, and that is when any foreigner visits the United States to go to the doctor, to get surgery, to study, or to enjoy the theater in New York. So that embraces travel and tourism. That is a very large account.

But the biggest account is mode three, and the biggest form of delivery, mode three, that is when a U.S. company or a U.S. legal entity, goes abroad and establishes commercial presence, and that can be not just a company. It could be also a university or a hospital.

Its commercial presence means establishment. You have got to go to a place like India and set up business in order to provide education or health services, or to sell an insurance policy.

You can't sell life insurance policies to somebody in India from an office in New York. You have to be in India. And so really mode three is really absolutely the largest source of mode by which, or means by which, we trade in services.

And this is a huge -- I have forgotten the number right now, but the gross amount of U.S. foreign affiliates sales to foreigners, and that is to say the gross or the amount of sales by U.S. companies located abroad to foreign people, foreign citizens, vastly exceeds our total export of services.

I think it is about $300 billion. It is a very substantial element of our foreign engagement, and indeed the Labor Department, and in the pure economic analysis at Commerce, are changing the way they account for trade and services to include this measure, because the contemporary economy of services can't be captured just by measuring cross-border trade.

Then finally the fourth mode of supply is the movement of people -- consultants, lawyers, accountants -- who go abroad and deliver a service -- technicians, managers -- and this is called personnel mobility or mode three.

And it is to be distinguished from immigration issues which I can get to later if you wish. So in order for us to keep competitive, and to keep growing internationally, we need to reduce barriers to each of those four modes of supply.

And that is what we are engaged in in the WTO, and in the separate bilateral agreements. Now, CSI is very eager to participate and to support the administration in its bilateral strategy.

We at the same time feel there is no bar to our participating extremely actively in the WTO. We feel that it is all mutually reinforcing at the end of the day.

And that indeed one of the best ways to motivate high quality agreements in the WTO is to secure them in these bilaterals. So the bilaterals are for us, particularly Singapore and Chile, extremely important as benchmarks, as very high quality agreements, and essentially those agreements as we know them without having been able to study the texts, are very good agreements.

And indeed have fulfilled our objective to service a sector objective of being high quality, and therefore, models for other agreements. Now, to help with -- to help you all with this, and with understanding U.S. service sector objectives in each of these agreements, including accession agreements, like the Russian accession and the Vietnam accession, we have compiled a handbook or a guide book called Services and Priorities.

And in this case we have labeled it for the U.S. and Southern Africa Free Trade Agreement. And in this you will find a compendium, a compilation, or a guide, a quick guide, to the objectives of advertising, audio-visual, computer, education, and energy environment, express delivery, financial services, legal services, maritime services, multimedia information and technology, telecoms, and tourism services, to say nothing of across the board cost cutting issues that are very import that I am going to go into in a minute having to do with transparency, and electronic commerce, and the movement of natural persons.

So it is all here in 79 or 80 odd short pages, and we would be glad to make it available to you individually, but it is also on our website. So, SACU.

SACU poses very special challenges. In Chili and Singapore, we were dealing with two economies that have basically reached a level of maturity which enabled us to make pretty strong demands for liberalization. And thus we did achieve good results.

CAFTA and Morocco basically could be equated as countries that have a lower and lesser level of development, and pose also thereby a special set of challenges.

SACU comes in a special different category because of the nature of the five entities comprising SACU. Three of the countries are very poor, and two of the countries are wealthier, and we have used a very handy measure provided by Bernard Hopeman and devised by Bernard Hopeman at the World Bank, which says that -- and which indicates that Botswana, Swaziland, and Namibia, have each committed to under 5 percent of all their possible WTO GATS commitments.

That is to say that if you took every commitment that you could make in the GATs, those three entities have taken over 5 percent, have made only 5 percent in commitments, and very few of those are of a commercial presence, which is the most important.

That is to say, investment. South Africa and Lesotho by contrast have made commitments in 24 percent of all possible commitments, and that is a lot better, but it is not very good.

And so that leaves us saying how do we devise an agreement that can obtain the most liberalization possible from all of these entities. Maybe you all have thought about this. Maybe it is possible to segregate and say three have to be given special and differential treatment.

That is GATT-speak, and the other two have to be treated as more mature economies, and thus more demands be made of them. I was recently at lunch with

Renato Ruggerio.

He was here in November. And you may recall, Madam Chair, this anecdote, and I said to him, look, I have got to go and testify in Morocco in a half-hour, and what am I going to say.

You know, how can you be so -- how can a developed country like the United States really be as demanding on Morocco as we have been on Chile and Singapore, and he said don't think about it.

He said go ahead. They have to -- you have to make these demands, and you have to urge liberalization, because at the end of the day it is good for them. It is in their best interests.

But it is possible to cushion the impact of a massive opening of the market in these special cases with phased commitments, and also with capacity building; targeted, committed, programs of trade capacity building which you make available, and which the United States commits perhaps in a treaty form, and maybe that is going to far.

But commits as part of this agreement to making available to these much poorer economies, and we could go into that at greater length later. So we urge that we enter into this agreement, the SACU, the SACU negotiations with high standards.

But with acknowledging that in the case of the poorest of those countries that we have to be flexible and have to commit to substantial trade capacity building measures.

Now what is it that we want? I am not going to go through item by item as the Chair breaths a sigh of relief, but I will ask you to consider one element that we find very important as a cross-cutting measure. Do I have time to go on for another minute?

And that is the issue of transparency. We all as you all know very well, we operate under the Administrative Procedures Act of the '40s. This is thoroughly ingrained in our regulatory culture.

It is essential to services, because services, like financial services, telecommunications, are so highly regulated. This applies abroad as well. Services are regulated seriously abroad as well.

But very few other countries maintain our level of transparency and regulatory practice.

Regulations are published and there is no clear way often to know what is on the books. They can change, therefore, to favor, and they can be changed by regulatory authorities to favor local rather than foreign suppliers.

There are all kinds of problems. Luckily in Chile and in Singapore, we demonstrated that these transparency disciplines which we int his country have taken for granted, can be applied by other economies, and the Chileans and the Singaporeans we understand the agreements, have both made very serious and substantial commitments to regulatory transparency.

And these commitments can be made by even the poorest countries, particularly with phased commitments, because the earlier the better. The earlier a country commits to transparency disciplines, and to implementing those as a regular part of their regulatory process early on, the better off they are going to be later, and the better off we will be.

So that is one area in which I would like to stress and call to your attention. And other than that, I sense that my time is depleted, and we can answer questions.

And by the way, I would like to introduce Linda Schmidt, who accompanies me. She is the vice president of CSI and has helped me prepare this testimony.

CHAIRPERSON SURO-BREDIE: Thank you very much.

MR. VASTINE: Along with Vladamir Golala.

CHAIRPERSON SURO-BREDIE: Could you, Mr. Vastine, for the record give us the address of your website? I know that several people would be interested in accessing your document.

MR. VASTINE: Sure. Well, it is www.uscsi.org.

CHAIRPERSON SURO-BREDIE: Thank you. And if you could provide us a hard copy for the record that would be helpful.

MR. VASTINE: Absolutely. Yes, we have dozens.

CHAIRPERSON SURO-BREDIE: Thank you. Our first question --

MR. VASTINE: Madam Chair, could I ask a

question?

CHAIRPERSON SURO-BREDIE: Please.

MR. VASTINE: Are these testimonies, these statements, made available on your website?

CHAIRPERSON SURO-BREDIE: Not yet.

MR. VASTINE: And could I ask why?

CHAIRPERSON SURO-BREDIE: Because our webmaster is redesigning our website, and we are hoping that it will be finished soon, and we can do this. It would be much easier.

MR. VASTINE: Yes. I won't tell you my anecdote, but I was preaching transparency to a bunch of Chinese students and Chinese bureaucrats who come here on a mission, and they said, well, if you are so transparent, then why can't we get copies of all the statements on China at the China accession hearings that you had.

And I said I can't believe those aren't available. Of course they have to be available, and they have to be available. Oh, no, they're not. And of course --

CHAIRPERSON SURO-BREDIE: They are

available in the reading room.

MR. VASTINE: Well, that is a little different.

CHAIRPERSON SURO-BREDIE: I understand.

MR. VASTINE: Yes. So those guys proved to be right, and I had to eat crow, but I am delighted to hear that those will be changed.

CHAIRPERSON SURO-BREDIE: The first question will be asked by the Department of State.

MS. HYLAND: Good morning.

MR. VASTINE: Good morning.

MS. HYLAND: In your written testimony, you mention temporary entry, which I think is a very interesting topic these days. But you gave it minimal discussion in the small section that you devoted to it.

MR. VASTINE: Yes.

MS. HYLAND: Is there anything else that you would like to tell us about how you would like this agreement to address this issue?

MR. VASTINE: Well, to be frank, we have -- we were maybe a little less complete here than in the handbook or the guidebook, and you will find a complete discussion of our objectives there.

And indeed we have submitted a model schedule, a template, for use in the WTO. And the bottom line is this. We need to be able to shift key personnel around the world -- our members companies do -- very quickly.

We find that we lose contracts if we have to wait for long periods of time to get visas to go to a particular place, and deliver a particular service. You may well ask why.

The reason is that big companies like any of the accounting companies, and any of the consulting companies, and law firms, and others, need to be able to send the supplies to IBM and EES, for example, as well as to Accenture and as well as to others -- PriceWaterhouseCoopers -- they need to be able to send experts to service the needs of their clients.

So if Accenture has a contract with -- name a company -- General Motors, to supply information technology services, and GM is having a problem with its facility in Sri Lanka, and needs help immediately, Accenture has to find a team of people to go there right away to do that, to service those clients.

And so what we seek is a quick visa process, and some have called for a special visa. That may not be necessary. But for a modality that would permit these experts to get to Sri Lanka quickly to do their work for a temporary period.

Now, in some cases, because these projects are complex, the expert will have to go back a couple of times. So we also ask that they be reentry. Now, obviously if we asked that in Sri Lanka, that we would have to do it ourselves.

And indeed we do. I mean, Accenture -- let's say that my nephew works for Accenture, and so I know this culture. He lives in Boston, and that is on weekends, but he is assigned regularly to other parts of the world, or to any part in the United States.

And suddenly he will get a call, and he says, you know -- they say report to work in Vupital tomorrow, or the next day, or Sunday. You know, quite quickly get on the plane and go there, because they compose teams of experts in various subjects from their personnel all around the world.

And they put them together and they send them to service a client need, and that is just an element of the global economy and it is growing. And it is also an area where the U.S. is best. We are very, very good at providing these sorts of services.

And indeed we have a good healthy export balance of trade record here. So that is the kind of thing that we are seeking in general terms, and I don't know whether that helps you.

CHAIRPERSON SURO-BREDIE: The next question will be from the U.S. Trade Representative.

MS. HAMILTON: If I could just follow up on your response to that question. Personnel mobility versus immigration, is that -- the answer that you just gave, does that provide the distinction between the two?

MR. VASTINE: Well, when we think about people coming to the United States, we are not thinking -- we are providing -- what we want to do is provide a means for people to come here for short bursts, short term stays; a month, two months, three months.

We are not talking about each one being the minimum term, which I think is 3 years, and then it is renewable. That is an invitation it seems to me to two things.

First of all, to engage whoever that person is who has that visa to stay, because they like living in the U.S., and little wonder. But, secondly, providing short term entry vehicles is much better for the countries that export talent who don't want to see their talent become citizens of the U.S., and who want to get the talent back.

And that would be apropos, for example, to Indian software consultants. They are very good at that, but they have a constant brain drain. Now, indeed, that brain drain has been beneficial to the United States.

There is some figure that 67 percent, or a very large proportion of the prosperity of Silicon Valley in California is supplied by Indian firms, or firms that are now run by Indian-Americans. This is good for America, but it could be said to be bad for India.

MS. HAMILTON: Actually, I do have another question, and that has to do with focus trade capacity building. You talked about the importance of this in services, and that encourages cooperation between the private and the public sectors in the SACU countries.

Can you be more specific about the kinds of programs that you envision?

MR. VASTINE: Absolutely.

MS. HAMILTON: And can you also tell us something about what the industry can do, or what the industry can offer in terms of trade capacity building?

MR. VASTINE: Well, we thought about this a lot, and I am Chairman of our ISAC on services and so we thought about it in the ISAC as well. And CSI and the ISAC have basically agreed that there ought to be 3 or 4 elements of USAID and the rest of the government's capacity building efforts.

By the way, I will point out that the

Treasury, in the -- I don't know which part of the Treasury you are from.

MS. HAMILTON: International Trade Office.

MR. VASTINE: Who is your DAS?

MS. HAMILTON: John Miller.

MR. VASTINE: Oh, good. Well, Jim Fall maintains a very extensive program of Treasury effort to capacity build in central banks, and foreign ministries, or I mean finance ministries.

So I wanted to point out that USAID is only one place that this effort comes from, but our goals are to provide -- we think that all these efforts should be focused on four goals.

First, to achieve transparency in domestic relation; to tell countries how to do that, and implement it. Secondly, to help them adopt best practices in domestic regulation.

That means to help them build regulatory structures that are necessary to fairly and adequately regulate insurance sector securities markets, a banking system that operates with due regard to the needs of consumers, et cetera. That is just one area.

Telecommunications is another.

Thirdly, we think the agency should be helping you expand the role of the private sector in development; and fourthly, to help countries to build capacity in their own trade negotiating capacity, and to be able to identify what their expert goals are in services and in other products.

And to be able to negotiate and to engage in forums in Geneva and elsewhere to achieve their own legitimate objectives in trade negotiations. So that is kind of a mouthful, but I would be glad to supply you with our paper on that.

It is just a two page paper that I think relays it out, and I was pleased that the House Appropriations Subcommittee on Foreign Operations adopted those criteria in its instruction, in the subcommittee's instruction to AID as to capacity building efforts.

So we are hoping that the Senate will agree with that and the bill is passed in January that will embrace those capacity building objectives. But there is no reason why we can't pinpoint for the countries that we are talking about here, that we can identify their discrete needs.

And I have no idea of the regulatory sophistication of Boswana, Swaziland, and Namibia, no idea at all. But an assessment can be made of their needs, and we can help sponsor them.

As to the private sector, there are lots of programs going on in the private sector, and the trouble is that it is very, very hard to catalog them. It is very hard to get your hands around that. It is an enormous elephant.

CHAIRPERSON SURO-BREDIE: I think that those are all of our questions. Mr. Vastine and Ms. Schmidt, thank you very much. And if you could send your two page paper to Gloria Blue.

MR. VASTINE: I sure will.

CHAIRPERSON SURO-BREDIE: That would be great.

MR. VASTINE: It is on the website, too, I hope.

CHAIRPERSON SURO-BREDIE: We have one final question.

MR. MOORE: I just wondered --

MR. VASTINE: Which is your Department?

MR. MOORE: DOTR. Just in terms of capacity building, and some of the efforts that the private sector and your industry is doing, is there a contact person with your agency, or somebody that we might work with, that has perhaps a broad knowledge of some of the things that are going on that is an area that we might follow up on?

MR. VASTINE: Sure.

MS. SCHMIDT: The two page paper that we have identifies the private sector programs that are going on in terms of trade capacity building, and if you would like to get together with some of our members who are active in this, we would be happy to set that up.

MR. VASTINE: That is a very good idea actually. We could be in a group in to see you.

MR. MOORE: Yes, we would love to do that.

MR. VASTINE: The insurance sector, for example, has remarkable outreach, and part of the accession to China, or China's accession -- well, I should say they are definitely part of the insurance company's efforts to achieve licenses in China prior to accession -- entail the establishment of schools and institutes to teach good high quality insurance regulatory practice in China.

CHAIRPERSON SURO-BREDIE: Thank you very much again. Our next witness is Mike Evans, Vice President of the U.S.-Southern Africa Business Council, and Vice President of Maurice Pincoffs Company. Welcome.

MR. EVANS: Good morning, Madam Chair, and Panel Members, it was 72 degrees when I left Houston, and it is like minus 10 out there now. So it is quite a trip for us.

You have got me written down here as Vice President of the U.S.-South Africa Business Council. We are members of the council, and we have worked with the council a lot.

I know that they are going to testify later today, and this morning I am testifying to you on behalf of the Maurice Pincoffs Company, the South African Pipe and Tube Association, and the South

African Stainless Steel Association, specifically representing those producers and other small and medium-sized private sector customers in the United States.

You have got my written testimony, and I could read it. I think it is boring, and so what I would rather do if it is okay with you is talk to you a little bit about things that are not necessarily in the report that I think we can talk about, and then ask questions if that is okay.

CHAIRPERSON SURO-BREDIE: That's fine.

MR. EVANS: Okay. My first question is that I know that some of you have been, because I know some of you, how many of you have been to Africa; Southern Africa, SACU? Many times, a few times, one time? Once. Good.

Personally, I have been going sine 1980. We went through the dark days of Apartheid, and through the free elections, and the release of Nelson Mandela, the new South Africa.

I was on the Gore-Mbeki Binational Commission and have seen a great deal of change in

Southern Africa, and not only in South Africa, but in Botswana, Namibia, the whole region, including Mozambique.

Unfortunately, there are some things going on in Zimbabwe that are quite frightening, and if that kind of situation moves South, we are in serious, serious trouble at the horn of Africa.

That is why I think SACU is so, so important to deal with an FTA or some kind of extension of AGOA in Southern Africa. Our testimony basically concerns our customers' concerns not only just in Houston, but all across the midwest and southwest.

We have a number of small clients who depend on our ability to import specific steel products -- pipe and tube, or stainless tube, or stainless tube and stainless flat rolled, into the United States as a supplement to what they could buy domestically or from other importers.

You will see in my testimony that we sent out a little light questionnaire to our customers asking them what they thought about the 201, and what they thought about trade issues, and what they thought about domestic availability, et cetera, et cetera.

Some of the responses were a little surprising, and some of them we expected. The bottom line is that every single U.S. small customer wants the ability to have alternative sourcing.

What we believe that the U.S.-SACU FTA initiative can do is not only for the small American businessman, but the small South African businessman, medium-sized, and even some of the larger ones, can certainly take advantage of having a steady market.

We do not propose changing any of the anti-dumping or countervailing duty laws. We think that those are set and should not actually be modified or amended to fit SACU.

However, there are a number of things that I will -- and I will re-emphasize those towards the end of this, that we would like to see included in either the FTA or AGOA if there is going to be an AGOA-3.

One of the things that -- or not one of the things, but there are a number of things that besides trade that we have to deal with when we are buying product in South Africa, and number one of which is HIV.

One of our biggest suppliers, Columbus Stainless, is located in Middleburg, which is about two hours outside of Pretoria. The township near Middleburg is Oompulmba (phonetic).

We figure that in that township, between the ages of 15 and 50 years old, there is about a 40 percent infection rate. Columbus gets all of their labor force from that township.

They have an AIDS policy, a written AIDS policy, that I have submitted to the USTR, and anybody who wants a copy of the AIDS policies from our suppliers are welcome, and just let me know and I will get them to you.

And they are quite extensive. The problem is that when we started the Gore-Mbeki Binational Commission, the pharmaseuticals companies were wanting to charge X-number of dollars for medication.

Today that is free, and they give that stuff away free. The problem is distribution, education, and letting the private sector -- having it more public-private sector.

We went through this over and over again with the council, and several of the members of the business council stepped up and changed their policy to reduce the cost of the drugs to zero.

It is interesting to note that in the United States, just to give you a feel from the United States to the SACU region. But what would you guess would be in the United States the number one selling insurance policy; life insurance, car insurance, something like that, automobile.

But the number one selling policy in Southern Africa is burial insurance. Now that is something that we can change eventually, and can help to change by opening up trade, and by giving access to the medium-and-small sized producers in South Africa to the U.S. market.

The killer for them of course is anti-dumping countervailing duty suits, where they are accumulated with other countries. Most of the trade cases against Southern Africa have been on accumulation basis.

Yes, they have been less than the dominious 3 percent. and they normally get accumulated with other countries that their total is over 7 percent. And, I mean, the law is the law. They go to th ITC, and the ITC says, well, unfortunately, you get accumulated.

They get a 5 percent duty added on to their product, must less a hundred percent, and they are out of the market. And when they get out of the U.S. market, they lose U.S. hard currency, and if they lose hard currency, they lose jobs.

And if they lose jobs, it affects not just the job worker. I have a friend of mine in Middleburg whose name is Leonard. And I have known Leonard for 15 years. Leonard's brother just died, and suspected of HIV, and suspected AIDS.

And when I say suspected, because in Southern Africa, you cannot put AIDS on the death certificate. You could put that he died of cancer or tuberculosis, or whatever.

And Leonard's jobs literally depends on

whether we have access to the United States. So it is hard to explain to him when I go over there, and I say, gees, we really want to do more with you, but we are kind of limited on what we can do because of the downside risk on this.

Well, what we hope is that what you can put together is some -- an agreement, either FTA or AGOA-3, or whatever, that will protect the jobs in South Africa, and that will protect the availability of steel to our customers.

I think that is really it. I want to go over with you the three or four things that we would like to see further discussed in this. Number 1 is as I have mentioned the accumulation.

Accumulation with SACU producers, with other countries, is absolutely disastrous. A 3 percent dominus as I understand it, and somebody is going to have to tell me this for sure, but I think in AGOA are there not quotas on certain specific products? Let's say textiles at 3 percent or whatever? Can anyone, the staff, confirm or not confirm that in AGOA?

CHAIRPERSON SURO-BREDIE: I'm sorry, but I missed your question.

MR. EVANS: I believe that there are specific quotas spelled out in the AGOA treaty on certain products. Is that correct? I think it is textiles that is 3 percent of like imports.

MR. MOORE: If you are talking about textiles and some of the agricultural products, I think what we have done there is basically under AGOA that the existing quotas on some of those products were unchanged by AGOA.

So AGOA did not impose any new tariffs. It just is that some of the old tariffs or some of the old quotas are still there.

MR. EVANS: Okay. So, anyway, what we are asking for is to at least open a dialogue, open a discussion, to try to eliminate accumulation. We would also like to try to get for small and medium-sized companies pre-consultation prior to any AD-CVDs, or 201s.

We would like to try to get accelerated administrative reviews similar to what is available in

NAFTA, and of course eventually under an FTA eliminate all duties on each side of the water on all products.

In my testimony that I have given you, I gave you some responses on the survey that we sent out to our customers. I don't think there is anything magic in that. There is no surprises, and I think you can tell pretty much that I am out of time.

Anyway, there is charts on the back, and so now I think if you have questions.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Evans. The first question will be asked by the International Trade Commission

MS. BONARRIVA: Thank you for your testimony. In your remarks, you have singled out two specific steel products, welded pipe and stainless steel flat rolled products for this special treatment.

Are there any other steel products that you feel would or could benefit from this treatment and suffer from the same types of problems that those products face?

MR. EVANS: Oh, I think -- I am basically a free trader, and I would prefer not to have anything. I would prefer not to have any quotas, and not to have anything other than just totally open markets.

We specifically represent those industries, and those industries, if you look at the charts that I submitted, there has not been any surges, and there hasn't been any ups or downs, or anything else.

The previous pipe case, I think, was in 1995, and South Africa was added with Rumania. That case was -- the ITC voted in favor of the South Africans, and that was thrown out.

Since then though the pipe and tubing industry has had consistently tried to have to defend itself from additional cases that get filed. Our message to them is maintain your exports, and be consistent, and don't surge up or down. And to try to maintain that specific market.

No, other steel products would be represented by other people, and we represent only those specific suppliers.

MS. BONARRIVA: Can I get you to specify

which specific types of pipe and tube they --

MR. EVANS: It is all welded. It is not seamless. Seamless is under order today, and we cannot bring that in, and we don't represent that particular company.

All we represent is the South African Association -- well, I call it the ASPTM, the Association of Pipe Tube Manufacturers, which is basically welded pipe, a half-inch through -- oh, it goes all the way up to 50 or 60 inches, line pipe, standard pipes, square and rectangular tubing stainless pipe, et cetera, et cetera.

And I have given you what all the import statistics are on that. But what happens with the pipe tube committee is that they don't have any money. They have no Washington lobby.

What they depend on is somebody from Houston, Texas, and that would scare me in the first place anyway. But they can't afford to protect themselves. They can't afford to defend themselves.

There are other companies over there that are much, much larger that can hire a full legal team, but mainly the people that we are talking about -- and it is in my written statement.

I have given you the full background and the full outline of what particular pipe products they are. But those are the two products that we would like to see something on.

CHAIRPERSON SURO-BREDIE: USTR.

MS. HAMILTON: Can you tell us what U.S. industries are using South African steel?

MR. EVANS: Which what?

MS. HAMILTON: Which U.S. industries are using the steel products that you are talking bout.

MR. EVANS: That we sell?

MS. HAMILTON: Yes.

MR. EVANS: Oh, we sell like our stainless flat roll goes -- we sell it all the way from Los Angeles, up through Kansas City, through Atlanta. Most of what we sell goes to processors, who process it for end-users.

We have had big contracts through processors with General Electric, and we sell it to -- and this is on the stainless, but we sell it to the food industry, and to the dairy industry.

Some of it goes into automotive. Most of it is very, very specific. We don't see too many commodity grades. We will sell specialized polished stainless that goes to certain specific industries.

On the pipe side, we sell to distributors, who sell to the plumbing industry, to the housing industry, to any kind of conduit water pipe. We do not sell any OCTG. We do not sell to the oil and gas industry.

We really don't sell -- it is mainly to much, much smaller construction companies.

MS. HAMILTON: Thank you.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Evans. Thanks for traveling so far to talk to us.

MR. EVANS: Next time could you have it in June?

CHAIRPERSON SURO-BREDIE: This is mild for Washington. We could have treated you to an ice storm. Our next witness is -- oh, dear, I hope that I pronounce this correctly, Geir Kvernmo, Director of Marketing and Sales of Elkem Metals Company. You will have to correct it for the record, I'm afraid. Welcome.

MR. KVERNMO: Good morning. My name is Geir Kvernmo. I am the Director of Marketing and Sales for Elkem Metals Company, and we are a U.S. silicon metal producer. And I will spend about five minutes here reading my testimony and that at least we as silicon metal producers don't find to be boring.

And I am here to explain why the duty on silicon metal from South Africa classifiable under HTS subheading 2804.69.50 should not be reduced or eliminated under a free trade agreement with the countries comprising the Southern African Customs Union.

I recently appeared before the GSP Subcommittee to testify against granting GSP duty-free treatment to the same products under the African Growth and Opportunity Act.

And consequently the Trade Policy Staff Committee already knows quite a bit about this product, and the severely depressed state of the U.S. industry,a nd the causes of that depressed condition.

Based on these facts, duty-free status was not granted to this product under the AGOA. And as I explained then, silicon metal is a product composed almost entirely of elemental silicon.

It is manufactured in a variety of grades, based on the silicon content and the content of other elements. Normally there are only very small differences between grades.

In the aluminum industry, silicon metal is used as an alloying agent in the production of primary and secondary aluminum. Int he chemical industry, it is used as the basis for the production of silanes, fluids from which more than 1,000 silicone resins, lubricants, plastomers, antifoaming agents, and other products are formulated.

Silicon metal is classifiable under two HTS subheadings, 2804.69.10, and 2804.69.50. And because these tariff classifications are based solely on silicon content, they do not reflect how product grades are defined in the market place.

The major consumers of silicon metal use silicon metal falling within both HTS categories. In addition, higher grade silicon metal can be and often is substituted for lower grade silicon metal.

Because of this interchangeability, silicon metal classified under HTS subheading 2804.69.50 directly competes with all silicon metal other than semiconductor grade.

The U.S. silicon metal market is highly competitive. All of the significant suppliers can and do product silicon metal of all grades and all acceptable qualities.

In this competitive environment, price is generally the decisive factor in purchasing decisions, and price differentials of a fraction of a cent can determine who makes a sale.

In these circumstances, a 5.5 tariff -- the duty rate now in place -- is very significant. And the U.S. silicon metal market is currently experiencing the worst downturn period since the beginning of the 1990s.

Two of the five domestic producers have shut down their production operations, and one is being liquidated under the bankruptcy law. The market has declined further since I testified last.

And today the continued viability of the three remaining domestic producers seriously are threatened, even though these companies are efficient and can supply these important consuming industries.

And why is the market so depressed? The short answer to that is that there has been an avalanche of low priced imports from Russia and South Africa. In March of this year, the U.S. producers and labor unions filed an antidumping action against the Russian imports.

This action has resulted in the imposition of preliminary relief that has produced some improvement in the U.S. market prices. However, prices remain depressed and the condition of the domestic industry is very fragile.

Until now, most U.S. imports of South African silicon metal have been in the HTS category already are afforded duty-free treatment under the GSP program.

However, the volume of South African imports under HTS 2804.69.50 has started to increase significantly.

If the duty on imports in this category is reduced or eliminated under a free trade agreement, we expect the flow of these imports to continue to accelerate and to exacerbate the very serious difficulties already confronting the U.S. industry.

Until recently, Samancor, one of the world's largest ferroalloy producers, was the South African producer of silicon metal. In 1999, Samancor and Pechiney, a large French ferroalloy producer, combined their silicon metal assets by forming a joint venture, Invensil.

In 2000, Pechiney acquired Samancor's minority interest and became the sole owner of Invensil. Invensil is one of the world's largest silicon metal producers. Its South African operations alone have 40,000 metric tons of capacity.

These operations are almost entirely export-oriented, with the U.S. market the predominant target for these exports. The prices of South African silicon metal imports under HTS 2804.69.50 are extremely low.

In a market in which a fraction of a cent can determine which supplier makes a sale, eliminating the tariff on these imports would allow the South African imports to displace even more domestic product and depress U.S. market prices further.

And the current low prices and the saturation of the U.S. markets with imported silicon metal, and the deterioration of the financial condition of the U.S. industry makes the U.S. industry highly sensitive to low price South African imports.

Further increase in the import volumes and declines in their prices will have a rapid and direct impact on the domestic producers' operations. For all of these reasons, we appeal to the Trade Policy Staff Committee to advise the treaty negotiators that the domestic silicon metal industry is highly sensitive to imports of silicon metal from South Africa, and to recommend against reducing or eliminating the tariff on imports under HTS 2804.69.50. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you very much. Our first question will be asked by the Department of Treasury.

MS. SAN MIGUEL: Good morning. Actually,

I have a two-part question. You attribute a lot of the problems to the industry to imports from both Russia and South Africa, and I am wondering if you could provide some information quantifying that, in terms of volume and price between those two countries.

MR. KVERNMO: Russia and South Africa over the last couple of years have roughly the same amount of imports into the U.S., and the imports from both countries are between -- it has been fluctuating between probably 10 and 15 percent of the U.S. market each.

So the two of them combined is somewhere between 20 and 30 percent of the U.S. market.

MS. SAN MIGUEL: And my second question is to what extent do other factors -- maybe the imports from other countries, or domestic, or the conditions of the domestic market contribute to the problems that the industry is facing?

MR. KVERNMO: I think clearly when you look at what has happened to the silicon metal industry over the last several years, a lot of the -- or some of the U.S. domestic industry has been forced out of business because of these imports from primarily Russia and South Africa.

And these imports have really driven prices down to a level where this is happening. You know, some of the U.S. domestic industry is no longer in business, and we have seen that from shutdown of furnaces, to bankruptcies.

MS. SAN MIGUEL: Thank you.

CHAIRPERSON SURO-BREDIE: Our next question is from the Department of Commerce.

MS. ROBINSON-MORGAN: Good afternoon. Besides Russia and South Africa, are there any other major producers of silicon metals that are affecting U.S. production; and if so, can you quantify I guess the share of imports that would be coming into the United States?

MR. KVERNMO: I would say that the imports into the United States are -- well, there are several other producers globally of silicon metal. The two largest importers into the United States have been Russia and South Africa, and after them we would probably say it is the Brazilian producers.

There have also been some Chinese coming into the U.S.

MS. BURNS: I am Jessie Burns from Elkem Metals, and we would be glad to put these comments in our comments that are due on the 20th as well. Geir is right that 25 percent basically of the imports or of all imports have been from South Africa over the last few years. And with Russia contributing significantly as well.

MS. ROBINSON-MORGAN: Thank you.

CHAIRPERSON SURO-BREDIE: Thank you very much for your testimony and for your answers to our questions. Our next witness is Mr. Steve Houser and Dan Rosendale of Eramet Marietta.

MR. STEVENS: Good afternoon. I am Cliff Stevens, counsel for Eramet Marietta, Inc., and with me is Dan, and also Dan Marshal, and Dan will provide Eramets testimony this afternoon.

MR. ROSENDALE: Good afternoon. As Cliff said, I am Dan Rosendale, and I am the plant manager at Eramet Marietta, Incorporated. Eramet is a U.S. producer of manganese-aluminum briquettes, manganese powder, and other products located in Marietta, Ohio.

I am appearing before you today because our manganese briquette and powder operations are being severely hurt by imports and that are highly vulnerable to further injury if the duty on South African imports is eliminated.

Manganese aluminum briquettes and manganese powder are produced from manganese metal flake. Manganese metal powder is produced by grinding manganese metal flakes into powder. Manganese-aluminum briquettes are produced by compacting manganese metal powder and aluminum powder.

These briquettes, which typically contain between 75 to 85 percent manganese, are consumed by the aluminum industry. Manganese increases strength and hardness of certain aluminum alloys, including those used in the production of aluminum beverage cans.

Currently, flake, powder, and briquettes, are classified under the same tariff subheading, HTS 8111.00.45. As you know, Eramet has petitioned for duty=free status for manganese metal flake from South

Africa under GSP. Manganese Metal Company, MMC, a South African producer, also requested GSP treatment for powder and briquettes.

For reasons that I will explain, Eramet strongly opposes granting GSP to these products, and a GSP review was initiated only with respect to manganese metal flake from South Africa.

The decision in the GSP review has not been issued. Eramet formerly produced manganese metal flake in addition to powder and briquettes. In October of 2000, we were forced to stop producing flake due to depressed market conditions for the flake and briquettes caused by dumped, low-priced, imports of Chinese manganese metal, and imports of manganese aluminum briquettes made from Chinese manganese metal.

The only other U.S. producer, Kerr-McGee Chemical Corporation, later shut down its flake, powder, and briquette operations. For about five years now, briquettes made using the extremely low priced dumped manganese metal from China have been entering the U.S. market in large volumes.

Eramet has been forced to meet the low

prices of these briquettes, and has lost sales to them. The result has been severe injury to our manganese grinding and briquetting operations.

Eramet has worked hard to remain in the business of producing manganese aluminum briquettes and manganese powder. Eramet has modern and efficient manganese grinding and briquetting equipment, and has made significant investments in this equipment.

However, market conditions for manganese aluminum briquettes continue to be extremely difficult due to the low and declining prices of imported briquettes, and more recently poor conditions in the U.S. aluminum industry.

We purchased South African flake for use in producing manganese powder and manganese-aluminum briquettes. Thus, eliminating the current 14 percent duty on flake from South Africa would allow Eramet to achieve major cost savings, and help it be more competitive against imported briquettes.

However, eliminating the 14 percent duty on manganese briquettes and powder from South Africa would have major negative effects on our manganese grinding and briquetting operations, which are already being severely hurt by imports and are highly vulnerable for further injury.

MCM, a South African producer, already is highly competitive in the U.S. market across the full spectrum of these products; flake, powder, and briquettes with the current 14 percent duty.

Eliminating the duty on briquettes and powder would result in a major increase in the volume of imports from South Africa into the U.S. market already saturated with low priced imports.

If briquette prices would decline, Eramet would lose sales volumes and we would be forced to permanently shut down, or we could be forced to permanently shut down our briquette and powder operations.

For these reasons, Eramet strongly urges USTR to take the position in its proposed South African FTA negotiations that the current 14 percent duty on manganese aluminum briquettes and manganese powder from South Africa should be maintained. This concludes my testimony.

CHAIRPERSON SURO-BREDIE: Thank you very much, Mr. Rosendale. The first question will be by the Department of Commerce.

MS. ROBINSON-MORGAN: Good afternoon. How many other producers of manganese exists in the United States today?

MR. ROSENDALE: Of manganese? Mo one.

MS. ROBINSON-MORGAN: No one?

MR. ROSENDALE: Of manganese-metal flake.

MS. ROBINSON-MORGAN: No one?

MR. ROSENDALE: No one.

MS. ROBINSON-MORGAN: Okay.

MR. ROSENDALE: And if your question was flake only, there is no other ones. But in terms of briquettes, there is one other producer in the New Jersey. So in those lines of products, the flake, there is nobody; and in briquettes, we have one other competitor in the U.S.

MR. STEVENS: And just to clarify, Dan is saying that there is no flake production at all in the United States since Eramet closed its operations and Kerr-McGee closed its flake operations.

MS. ROBINSON-MORGAN: Right. Okay. Thank you.

CHAIRPERSON SURO-BREDIE: The next question will be by the Department of Treasury.

MS. SAN MIGUEL: In your testimony, you state that major injury to the industry are the Chinese imports and seem to be the major contributor to falling prices.

MR. ROSENDALE: Yes.

MS. SAN MIGUEL: I am wondering if you could elaborate more though on specifically how South African imports might create more injury.

MR. ROSENDALE: Well, the price of manganese flake from China has really driven the aluminum briquetting, the briquette manganese-aluminum briquette prices down about 40 percent in the last 4 to 5 year period.

And we believe that same -- that that percentage decrease related to the duty could affect the same thing on the manganese-aluminum business if that duty was removed, and that's why we oppose it on powder and manganese aluminum if that answers your question.

MS. SAN MIGUEL: I am just looking for more specifics I guess on the South African market, and how South African producers would --

MR. ROSENDALE: Well, MMC, in addition to making flake and powder, they also make manganese-aluminum briquettes also like we do. And we used to be equal in terms of full range of products, but we no longer make the plate itself, okay?

But they make the plate, and they make the powder, and they make the manganese-aluminum briquettes. So it would be my belief that if this duty were to be removed that they would be able to come into the market with a cheaper priced product produced in South Africa.

MS. SAN MIGUEL: Okay. Thank you.

CHAIRPERSON SURO-BREDIE: And the last question by the ITC.

MS. BONARRIVA: I just wanted to ask does South Africa produce their briquettes from the flake that they themselves produce, or do they import from China as well?

MR. ROSENDALE: They produce from their own flake.

MS. BONARRIVA: Okay. And so currently in the U.S. market there are imports of the three types of products from both of these countries?

MR. ROSENDALE: I want to make sure I understand your question.

MS. BONARRIVA: What imported products is currently in the U.S. market?

MR. ROSENDALE: Okay. As far as I know, the Chinese will produce powder and flake, and market it, and they will also do manganese aluminum to a lesser extent.

And South Africa -- there are really only two places that manganese metal is produced in the world today, and that is South Africa and China, okay? The South Africans have the full range really.

They do the flake, and they do the powder, and they do the briquettes. We have not seen much in terms of Chinese briquettes yet, but I think it would be my estimation that that is probably going to happen, okay, over the near term.

So really there is also some players that use Chinese, and European producers that also do briquettes in the U.S., and there are 2 or 3 that we know about. So, if that answers your question.

MS. BONARRIVA: Could you give a couple of more specific -- more specific information about the pricing in the U.S. market of the briquettes? If the 14 percent duty were removed from the South African briquettes, how would the cost competitiveness relate to imported products?

MR. ROSENDALE: Well, you would assume that they would have a 14 percent possibility to reduce their price, and that is what I would conclude. If they bring it in today and they pay a 14 percent duty, they would have the ability to not pay that and reduce the price up to 14 percent.

And what they would choose to do would be impossible I think for me to speculate about it if I am answering your question.

MS. SAN MIGUEL: Do you know if they are exporting to other markets?

MR. ROSENDALE: Yes. South Africans are

in the U.S. market, and they are in the Canadian market that I personally know about, and in the Japanese market as far as I know.

I am not aware about -- I am not that familiar with the European market, but we could get you that information if you need it.

MR. STEVENS: One thing that is in Dan's written testimony and it wasn't laid out as broadly today because of time constraints is that the Chinese manganese metal has come into the U.S. market really in two forms.

There is a series as Dan said of European briquette producers that are buying the Chinese manganese metal, and then that is flowing into the United States at a very low and declining price.

And that is a large portion of the market, and then to a lesser degree the only other U.S. briquette producer, Shieldalloy, is importing powder manganese powder from China, and then making briquettes here and selling those.

So that is how the price has been in those two vehicles really, and it has been driven down. And

I think the concern is that with market prices already depressed that the U.S. industry, already having suffered a lot of injury, and adding an additional volume from South Africa of briquettes and powder would be very injurious.

MR. ROSENDALE: We are basically selling that much over our variable costs really in terms of manganese aluminum briquettes today in the aluminum industry to stay competitive. And it is partly to keep the U.S. aluminum industry competitive as well.

CHAIRPERSON SURO-BREDIE: Thank you very much, Mr. Rosendale and Mr. Stevens.

MR. STEVENS: Thank you.

MR. ROSENDALE: Thank you for your time.

CHAIRPERSON SURO-BREDIE: Our next witness is Carolyn Gleason on behalf of the California Cling Peach Association. Welcome.

MS. GLEASON: Good afternoon, Madam Chair and Members of the Committee, my name is Carolyn Gleason, and I am trade counsel for the California Canned Fruit Industry, which would have been here in person, as they almost always are, but for a hearing in California.

The products of principal concern to the U.S. industry are canned peaches, canned fruit mixtures, and frozen peaches. The producing country of principal concern within the Southern African Customs Union is South Africa.

South Africa has an extraordinarily competitive cling peach industry, and duty-free treatment on cling peach products from that country would place unreasonable strains on the 750 growers and 4 processors who comprise the U.S. industry and are working hard to prevent its demise.

The California industry is asking in this trade initiative, as in all others that are now pending, that its most import sensitive tariffs be exempted from tariff reductions.

If exemptions prove impossible, then the maximum phase out periods and related protections need to be accorded. Every one of those cling peach products has been identified as import sensitive in the TPA legislation and in the previous AGOA review, and in all other relevant U.S. import reviews.

Many of you have heard the canned peach story before, but for those of you on the committee who have not, let me give you just a little bit of context. EU canned fruit subsidies have been a 22 year scourge on the California industry.

Essentially, no U.S. government strategy -- and many, many have been tried -- has worked to restrain the extravagant, highly trade distorting, EU annual payments.

The California industry has almost entirely lost its once robust export market to subsidized Greek sales. All other major global producers of canned fruit are suffering similar trade distortions.

The U.S. industry's fight today is principally about maintaining its U.S. sales. The consequences to California of unrestrained EU subsidies have been especially harsh. A large-scale bankruptcy, plant closing and associated job losses, tree poles, and unprofitable grower returns.

There have been some U.S. and industry resources that have helped; Congressional emergency payments, record school lunch buys, and some export promotion monies, and maybe most significant double-digit U.S. tariffs.

Those U.S. tariffs are now at risk, however. To the industry's dismay, literally every major non-EU canned fruit producing country in the world is in line to get, or has just received, a free trade area with the United States.

After the EU, the largest global canned fruit producers are South Africa, Australia, Chile, and Argentina. They are all competitive with California, and are all clamoring for prompt FTA access to the U.S. canned fruit market.

None of them is a plausible market for California canned fruit. The California industry has just finished fighting for protections under the Chilean FTA under which it received maximum import-sensitive treatment.

Now three business days later, we are on to the Southern African Customs Union. A few weeks later, we will be here again testifying on Australia, and shortly thereafter, we will be asked to review the

FTAA offers.

The picture this FTA cumulative picture for this industry frankly is overwhelming, and it looks like a horizon of a sort of increased import pressures and nothing else for an already fragile U.S. industry.

The subject of this hearing, South Africa, is a clear threat to the California industry with duty free access, and was previously recognized as by the U.S. Government.

In the IGOA review canned peaches, canned fruit mixtures, and frozen peaches, were 3 of only 6 agricultural products exempted from duty-free treatment.

Since that review 2 years ago, the circumstances in the California industry have only gotten worse. Moreover, U.S. imports of these products from South Africa have increased.

Exemptions were accorded under AGOA in large part because South Africa is a world class producer and exporter of cling peach products. It exports about 90 percent of hits canned fruit production.

It is the fourth largest producer of canned peaches, and the second largest exporter. Only Greece is larger. In the fruit mixture market, it is the second largest producer and leading exporter.

South Africa produces quality canned fruit product, and does so at a lower cost than in California because of its lower cost for production. Almost 75 percent of the canned peaches that South Africa exports to the U.S. market are sold to the U.S. institutional sector.

Half of California canned peaches are sold to that same sector. U.S. institutional buyers are driven solely by price, and not brand loyalty. At present even with U.S. tariffs, South Africa is selling to those U.S. buyers at prices lower than those that California could ever hope to offer.

Their current sales price is $11 a case, which is even lower than the Greek price, and substantially lower than the California price of $18 a case. Any reduction in U.S. canned peach tariffs will simply make South Africa that much more of a preferred purchase origin, further eroding pressure U.S. sales.

The related and perhaps more concerning commercial consequence is that the overall U.S. market price will suffer a decline, and because there are only a few institutional buyers, and sales are often made i large volumes, a lower end price lowers the bar against which the California product must compete.

In terms of U.S. marketing intentions, South Africa has been unabashed about wanting to expand its canned fruit sales. As I mentioned, just in the last year, it has substantially increased its exports of canned peaches and fruit mixtures to the U.S. market, even at current U.S. MFN rates.

On frozen peaches, South Africa's penetration is more limited, but here, too, it has the wherewithal to become a major presence in the U.S. market if encouraged to do so by duty-free access.

Both the industry and the U.S. Government are working hard to return U.S. growers and processors to profitability. Our collective efforts cannot work, however, if South Africa and all other global canned fruit producers are warmly invited into the U.S. market free of duty.

The California industry therefore asks each of your agencies for continuing special consideration as the SACU negotiations get under way. Consistent with AGOA treatment, canned peaches, canned fruit mixtures, and frozen peaches should be exempted from tariff reductions.

For the other cling products listed in our submission that are not exempted under AGOA, the industry asks for extended tariff phase out periods. We ask for this treatment knowing with certainty that without it the California industry will be put at serious risk.

Thank you, Madam Chair, and I will be happy to take questions.

CHAIRPERSON SURO-BREDIE: Thank you very much. The first question will be by USDA.

MR. HANSEN: I actually have three questions for you. The first one is do you believe that increased imports from South Africa will be more likely to take away market share from the U.S.

producers, or will it take market share away from other imported preserved or pared peaches?

MS. GLEASON: It will have two consequences. One is that it will take sales away from U.S. producers for the simple reason that the Greek and South African price are roughly comparable. At present, South Africa's price is a little lower. It is the U.S. price that is substantially higher.

So you are assured displacement of the U.S. sale, and secondly as I mentioned, it has a price to pricing effect, because you have such considerable consolidation in institutional sales that once you take that price down, prices now at $11 a case, you take the duty off, and it drops further.

it becomes the basis against which all California bids have to be made. Prices are already below cost of production.

MR. HANSEN: I would like to ask you a question about production, U.S. production specifically. How are the trends looking in this year and the years to come in terms of production of varying acreage?

MS. GLEASON: Production is up just a little bit because of an anomaly. Fruits, and cling peaches in particular, take a little time to come to fruition, to mature, and at present we have 377,000 metric tons of production.

It is modestly up from 2000, which is 351,000 metric tons. The reason it is up relates to planting needs associated with a certain plant. They wanted production in the general vicinity of that plant, and so plantings were made, and for other reasons.

And having said that, there have been tree pole programs in recent years, and more are contemplated, because prices are unsustainable.

MR. HANSEN: And my final question I think you might have answered a little bit in the previous response. We understand that the cling peach industry is pretty dependent on the U.S. market, and we are wondering if you could discuss some specific factors besides price contributing to the industry's competitive position in the U.S. market.

MS. GLEASON: The reason that the U.S. is now dependent on the domestic market is because of Greek subsidies, because of the use of these. If you look at the trend lines over the last two decades, the markets that we once had, including in Europe, in Japan, in Canada, in Mexico, and in an array of other countries around the world, have progressively declined to virtually nothing.

And the largest presence today in those markets is Greece. Even South Africa struggles with market penetration in markets other than in the EU, where it has a small TRQ. It is difficult for them to compete with Greek prices.

CHAIRPERSON SURO-BREDIE: Department of Commerce.

MS. ROBINSON-MORGAN: I have a really quick question. I am just wondering because price is such a factor in terms of consumption, has there been any approach by the growers or the producers to I guess create some kind of brand loyalty, and to look at it in terms of a marketing perspective?

MS. GLEASON: At the retail -- in the

retail outlets, brand loyalty makes a difference, and there are some significant brands, including Delmonte, that have an advantage by reason of that brand loyalty.

In institutional outlets, brands are irrelevant. It is all about price, and 50 percent of the sales made by the domestic industry go to institutional outlets.

CHAIRPERSON SURO-BREDIE: Is there an additional question from the USTR?

MS. HAMILTON: You said the industry is working with government to help return the sector to profitability. Can you tell us a little bit about what you are doing?

MS. GLEASON: The examples that I gave you are I think pretty much the universe of efforts underway. Record school lunch buys may have gone up substantially 724,000 cases in '99 and 2000, and up to 1.3 million cases today.

There have been Congressional emergency payments surrounding what was once called Tri-Valley. The Tri-Valley bankruptcy emergency payments were made in connection with that.

There are export promotion monies that are given to the industry to try to retain what they can of, let's say, the Canadian market. There are self-help measures if you will in the way of tree pole programs under way in the industry.

And the industry frankly is exploring other means of self-help and other means of assistance.

CHAIRPERSON SURO-BREDIE: Thank you very much, Ms. Gleason.

MS. GLEASON: Thank you.

CHAIRPERSON SURO-BREDIE: Our next witness is Mr. William Ferriera, President of the Apricot Producers of California. Welcome.

MR. FERRIERA: Thank you. Good afternoon, Madam Chair, and Members of the Committee. My name is Bill Ferriera, and I am the President of the Apricot Producers of California.

We are a bargaining and marketing association representing nearly all the apricot producers in California. California produces approximately 98 percent of the processed apricots in the United States.

I am here today because a free trade agreement with South Africa, more than with any other global producer of apricots, will have serious and unrecouplable consequences for our industry if it results in duty-free access to the U.S. market for South African apricots.

Of the Southern African Customs Union countries, South Africa is the U.S. apricot industry's principal concern because of its highly competitive processed apricot industry.

Our industry's most important products are canned apricots and frozen apricots. The U.S. tariffs are 29.8 percent on the canned product, and 14.5 percent on the frozen apricots.

Both products are import-sensitive agricultural products in the Trade Promotion Authority legislation, and most important for this hearing, they were both determined to be import-sensitive for purposes of the African Growth and Opportunity Act, and are exempt from duty-free treatment under AGOA.

Since the AGOA review, the economic conditions for California apricot growers and processors have become worse and imports of canned apricots from South Africa have significantly increased.

Because the fate of our industry may depend on the treatment accorded to our products in the SACU negotiations, we are asking for the same exempt AGOA treatment for canned and frozen apricots.

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If the agreement does not allow exemptions from tariff reductions, then we are seeking the maximum tariff phase-out period allowed under the agreement, with added safeguard protections.

For the other apricot products that are listed in our written submission, we are seeking sufficiently long tariff phase-out periods that will ensure that increased low-priced imports from South Africa do not disrupt these outlets also.

All processed outlets are necessary for California growers to sell their entire crop and meet expenses.

Maintaining our U.S. tariffs is so critical for our industry, because 95 percent of California's annual apricot crop is sold in the U.S. market as canned apricots or other processed, or fresh apricot products.

Our reliance on the U.S. market is the result of global over production of apricots, declining consumption trends, and depressed world prices. Unfortunately, these is no indication that these circumstances will reverse themselves any time soon.

With the global market for apricots oversupplied, U.S. growers are finding it almost impossible to compete in export markets with low-priced foreign production.

More concerning, however, is the increasing competition in the U.S. market and the prospect that our tariffs may be removed for South Africa and other global apricot producers that are also seeking FTAs with the United States.

Today, even with our duties, because imports are priced below the prices for California canned apricots, and U.S. demand for the product is static, imports in every instance are displacing a U.S. sale.

With FTA's either in place or being discussed for every major apricot producing country, the total impact of all these agreements will be devastating for the apricot industry.

The import pressures have required that California growers pull thousands of acres of trees to bring U.S. production down. Although these efforts have helped, U.S. growers have still faces 6 consecutive years of oversupply and low grower prices.

Compounding this situation is the lingering fallout from the bankruptcy of Tri-Valley Growers, which at the time canned 60 percent of the industry's annual canned apricot production. With conditions so strained, the last thing that our growers can adjust to is duty-free imports.

South Africa is the largest world producer of canned apricots and the third largest producer of apricots for all uses. Almost all of South Africa's canned apricots are exported and increasing amounts are to the U.S market, even with the 29.8 percent U.S. duty.

South Africa produces quality canned apricots. It is also a lower cost producer of canned apricots than the United States. Roughly three-quarters of the canned apricots that South Africa exports to the U.S. market are to the institutional or 610 canned side sector.

This is a market responsive to price and when it has a limited number of buyers. Based on prices quoted in September, at the current 29.8 percent U.S. duty, institutional size South African canned apricots are being sold in New York up to $3.50 per case below the California price.

And in the retail sector, South African canned apricots enjoy an even greater price margin at up to $5.00 per case.

What is abundantly clear is that without the 29.8 percent U.S. duty, both institutional and retail size canned apricots from South Africa would enjoy an insurmountable price advantage.

There would be more lost U.S. sales. The lower-priced imports would also depress the overall U.S. market price, affecting every U.S. canned apricot sale.

In the frozen apricot sector, our concern is that South Africa would be encouraged to shift some of its processed apricot production to frozen apricots if encouraged to do so by duty-free access to the U.S. market.

Frozen apricots can be produced on the same processing lie as canned apricots. Moreover, new technologies in this product are making frozen apricots an important secondary market for the U.S. industry.

With our dried apricot outlet lost to duty-free imports from Turkey, the industry call ill afford to lose this important outlet to South Africa.

There are no export opportunities for California apricots in the South African market, or any other FTA country. Thus, unless our duties are exempt from reduction, or given extra-long phase-out treatment, the free trade agreement will be profitable for the South Africans, and an industry-ending one for California growers.

We appreciate the opportunity to testify today and ask that the Committee consider our import-sensitive position as it begins deliberations with the SACU countries. I am happy to take any questions that the Committee Members may have.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Ferriera. The first question would be by the U.S. Department of Agriculture.

MR. HANSEN: Yes, good afternoon. My first question is, is there currently any U.S. investment in the South African apricot processing industry?

MR. FERRIERA: No, there is not.

MR. HANSEN: No? Okay. Also, you noted in your testimony that the California canned apricots for the retail sector sell for $16 per case, while South African canned apricots are listed at $11 per case; is that correct?

MR. FERRIERA: Correct.

MR. HANSEN: Could you please describe the price competitiveness of the South African prepared preserved apricots both for institutional use and for the retail sector in the U.S. market, versus other imported prepared preserved apricots from Mexico and the EU?

MR. FERRIERA: Well, South Africa is up to over 80 percent of the imports. So the imports are really coming in the canned sector from South Africa. That is our major competition.

They are slightly larger than the California canned apricot sector, but it is really coming out of South Africa. So when you see these price differentials, you see at least a $3.50 price and a $5.00 price for the retail, it is South African product that you are looking at.

MR. HANSEN: Thank you.

CHAIRPERSON SURO-BREDIE: USTR.

MR. MOORE: You mentioned the percentage of the imports that are accounted for by South Africa. Do you have a sense of how much additional we would be importing from them were these duties to be removed, and would those imports compete with your production, or would they compete with some of the other import suppliers?

MR. FERRIERA: Without a question, we would see a tremendous amount of imports coming in from South Africa. In fact, I can tell you today that if the tariff were removed today we would not have the United States apricot industry 5 years from now.

And the reason being is that we have a very static market. Our market is stabilized, but we are static, and the previous question on peaches, as far as brand loyalty, institution has no brand loyalty. It is strictly on price.

So when you take another 30 percent off it is going to be great. In the retail sector, WalMart has become the largest retailer. Unfortunately, WalMart is a private label retailer, and the store will not carry private label apricots at this point.

They carry some name brands, but not private labels, and so we would also lose the private labels. So we would see a tremendous amount of increase in South African imports, and every truckload or every container load of South African apricots that are sold in the United States would just displace and never cell, and what would happen is that we would have every apricot grower going out of business.

Every time there is imported products sold in the United States, we have apricot growers that will go out of business.

MR. MOORE: And just a final question. You mentioned that you were interested in either exemption from the tariff phase-out program, or the maximum phase out period, with an appropriate safeguard.

What is an appropriate safeguard in your view? What might that look like?

MR. FERRIERA: As long as possible would be our industry's -- our industry's preference is that we have a tariff exemption. If we cannot have an exemption as absolutely long as could be possibly set into the agreement, because again this will -- the problem that we have in apricots is that it is such a small industry that any change in what is coming in from what we are seeing right now will completely be devastating.

And what will happen is the people who are selling apricots, which is still today a much lower price imported product, and that will be the end of the apricot industry as we know it today.

MS. HAMILTON: Just one question. You mentioned that you had lost the dried fruit market to Turkey.

MR. FERRIERA: Correct.

MS. HAMILTON: Does that mean that there is no dried fruit production?

MR. FERRIERA: Over 95 percent of the dried apricots sold in the United States last year came in from Turkey. There is a very small dried apricot industry in California.

Part of that is exported to Japan. It is a very specialty pack, and that takes a little bit of dried, and then there is a little bit of dried apricot going into ingredient.

But one of the problems is -- and this past year, we put 10,000 tons of apricots in the ground and sold. The year before, we could not harvest 8.000 tons. Those apricots used to go in the dried market, and that when we had excess production, we could dry them, and we could find a home.

But because of the extremely low priced Turkish dried apricots, we cannot compete in that market, and then we have also lost the concentrated market again to very low priced world concentrate. Specifically, Chile, is one of the examples.

CHAIRPERSON SURO-BREDIE: Thank you very much.

MR. FERRIERA: Thank you.

CHAIRPERSON SURO-BREDIE: The next witness is Mr. Jack Roney, Director of Economics and Policy Analysis for the American Sugar Alliance, and Mr. Donald Phillips. The floor is ours.

MR. RONEY: Thank you for the opportunity to testify on behalf of the U.S. Sugar Industry. I am Jack Roney, Director of Economics and Policy Analysis for the American Sugar Alliance. I am accompanied by ASA trade counsel, Don Phillips.

ASA is a national coalition of growers, processors, and refiners of sugar beets, sugar cane, and corn for sweeteners. The world sugar market is distorted by a vast array of government policies that encourage over-production and dumped exports.

As a result the so-called world market price for sugar is really a dump price that reflects barely half of the world average cost of producing sugar. The ASA has long endorsed the goal of global free trade in sugar.

American sugar and corn sweetener producers are efficient by world standards. We would welcome the opportunity to compete on a genuine level playing field free of government intervention.

Our market should not be opened further, however, until foreign subsidies are eliminated. Our message today is consistent with our message to the Administration on all of the bilateral and related agreements that the United States is pursuing.

We strongly urge that you pursue a reform of a myriad of trade distorting sugar policies globally in the context of the ongoing multi-lateral negotiations of the WTO, and not regionally in the proposed South Africa Customs Union FTA.

A limited dismantling of trade barriers in the regional context would bring two dangers. One, those countries would become more vulnerable to continuing distortions in the rest of the world.

Two, the region would squander leverage to achieve a meaningful reform in the global context. Opening our sugar market to the five countries in this Customs Union would result in major disruption of the U.S. sugar market, sharply reduce producer prices and income, a great loss of U.S. jobs, and major budgetary outlays by the U.S. government.

These costs would far outweigh any overall gains to the U.S. economy resulting from tariff elimination. In particular, history shows that consumers would not see any benefit from lower producer prices passed along to them in the form of reduced retail prices for sugar or sugar-containing products.

Two of the five SACU countries covered by the proposed FTA negotiations, South Africa and Swaziland, are significant producers and exporters of sugar. South Africa is the world's sixth leading sugar exporter. It produces nearly 3 million tons of sugar per year, and exports about half.

Swaziland produces about a half-million tons of sugar per year, and exports about 400,000 tons. South Africa does not have an open market for sugar. No country does. South Africa defends its sugar industry with variable levies against imports, recently running about 84 percent.

Domestic prices more than double the world price, and export, and State trading enterprise, and other assistance, such as irrigation subsidies and drought relief aid.

South Africa and Swaziland already enjoy duty-free shares of the U.S. sugar import quota. But their combined exports, at about 1.7 million tons, total more than half the U.S. tariff-free quota for sugar from 40 counties.

I'm sorry, total more than the U.S. free tariff quota for sugar from 40 countries, which has averaged about 1.2 million tons in recent years. The great bulk of this export capability would be directed at the U.S. market if our tariffs on sugar and sugar containing products are eliminated for these two countries.

In fact, SACU sugar exports to the U.S. alone could exceed their current total exports of 1.7 million tons for two reasons. First, the prospect of unlimited access to U.S. markets would likely encourage increased sugar production as it did in Mexico.

Second, these countries could send us all their domestic production and substitute imported dumped market sugar for their own consumption. The low U.S. market prices that would result from increased SACU imports would harm not only American sugar farmers, but also the other 39 countries that have shares of the U.S. sugar import quota.

Virtually all of these countries are developing countries. We remind you, too, that the proposed free trade agreement with the SACU is only one of several FTAs under way or contemplated involving major sugar producers.

Chile, Central America, the free trade area of the Americas, Australia, and Thailand, are others. Combined, these countries export about 25 million tons of sugar per year, and that is more than double the total U.S. sugar consumption.

Increased market access on sugar for South Africa would set a precedent for these other negotiations that would overwhelm the U.S. sugar market.

The U.S. sugar industry believes that trade distorting government policies and pervasive dumping can be effectively addressed only in multilateral WTO negotiations.

We have urged the administration to focus its efforts on comprehensive, sector specific, negotiations within that forum. Attempts to deal with the problems that are plaguing the world's sugar industry, and to eliminate tariffs on sugar within the various FTA negotiations would jeopardize this broader goal and are unworkable.

In conclusion, rather than including sugar and efforts for individual FTAs, a sounder course of action is for our FTA partners to join with the U.S. in sector specific WTO negotiations, to attack aggressively, and to eliminate government policies that have so grossly distorted world trade in sugar. Thank you for your attention.

CHAIRPERSON SURO-BREDIE: Thank you very much, Mr. Roney. The first question will be by USTR.

MR. MOORE: In your testimony, you mentioned that sugar isn't freely traded, perhaps even within SACU, and you mentioned the variable levels, and the State trading enterprises in South Africa.

I wonder if you could provide perhaps more details on these restrictions, and maybe mention if these things are scheduled to be phased out, or if they are things that appear to be a permanent fixture.

MR. RONEY: We would be happy to do that. As a matter of fact, we have been working vigorously with the renowned international research firm, LMC International in Oxford, England, on fairly detailed profiles of the sugar policies in the 13 biggest sugar producing and exporting countries or regions.

And we have been working with them on this all this past fall, and it is a very difficult study to do, because we are looking at both transparent and non-transparent sugar interventions in those countries.

And we hope to have that study fully assembled early in January, and that does include one of those 13 countries profile, which is South Africa. So we would be happy to provide those details to USTR and to this committee as soon as it is available in early January.

MR. MOORE: Thank you very much for that. Also, just one quick question before we move on to USDA. What is the role of high fructose corn syrup currently in this market? Has this kind of gone as far as it can go there, or are we looking at a situation where this may continue to displace sugar that would then be offered for export?

MR. RONEY: That is an excellent question, and I don't have the answer for you. We will need to look into that and perhaps see what data the USDA has on it, and what data we can get directly from South Africa on that issue, because it is an important one.

Certainly it is an integral issue in our problems with NAFTA with Mexico, and so we need to look at that and understand it, and we would be happy to look into that.

MR. PHILLIPS: If I could add just one thing. One of your questions was whether or not any of these measures being maintained were scheduled to be phased out, and I think to our knowledge they aren't.

The ones that we mentioned, the variable levy system, loosely termed, they call it something else. The State trading. These are all as far as we know permanent fixtures, and obviously the government could change them at any time they want.

One thing they did change is that they used to have export subsidies and they have an allowance for export subsidies under the WTO, but they have phased out their export subsidy program.

But they have moved to this other system. Just recently, they moved -- in fact this variable levy system is something that they have set up fairly recently, at least in its current form.

But as Jack said, we will have a detailed report hopefully by very early in January that you can take a look at.

MS. HAMILTON: Are the South African counties going to be in your report?

MR. PHILLIPS: Yes, they are the only major -- really major producer and exporter. We are attempting to try to profile all the producers, who are producers, but we realize that there are 125 countries that produce sugar, and it just became too large to handle.

But South Africa at this point is the only African country on that list. We are interested perhaps further down the line at looking at Egypt, which is a major importer, and the Sudan, which has the potential to become a major exporter, particularly under concessions that are being granted to them by the European Union. But those studies may be further down the road.

CHAIRPERSON SURO-BREDIE: The next question is by the USDA.

MR. HANSEN: Yes. Good afternoon. I understand that Swaziland exports sugar to the EU under preferential agreement. Is that correct?

MR. RONEY: Yes. Nearly half of the

400,000 tons that they export goes to the EU under a price regime that is substantially higher than the U.S.'s prices and the EU for sugar about 50 percent than they are in the U.S.

MR. HANSEN: Do any other SACU countries have these preferential trade agreements?

MR. RONEY: No. South Africa sends a modest amount of sugar to the EU each year, but as far as I understand, they do not have the access to preferential price regime that Swaziland does.

MR. HANSEN: And one other question. Do any of the SACU counties have the capability to expand the sugar production beyond the current levels?

MR. RONEY: We suspect that they do, depending on what kind of price incentive they are offered. If they are looking strictly at expanding for the world gum market that is running about half the world's average cost of producing sugar, there is no incentive there.

If, however, they are looking at ratcheting up their access to preferentially priced EU or the U.S. market, there could be some strong incentives there.

But we don't fully have a firm grasp at this point of what potential additional acreage they could bring in.

MR. HANSEN: Okay. Are you aware of any resource limitations, like land or water, or those type of things in expanding sugar production in SACU countries?

MR. RONEY: We have not really studied that yet, but we are certainly are going to look into that.

MR. HANSEN: Thank you.

MR. RONEY: If I could just add that one immediate concern that we have is as I mentioned briefly in my testimony is the fact that these two countries together produce 3.2 million tons of sugar, and if an agreement with them were not -- included sugar and were not structured carefully, with only for examples rules of origins concerns, through a substitution it would be possible for these two countries to aim their full 3 million tons of production at the U.S. market.

So even without expanding their

production, there is the potential for far more sugar coming in here than we did, and our imports are only running about 1-1/4 to 1-1/2 million tons of sugar per year.

CHAIRPERSON SURO-BREDIE: The ITC.

MS. BONARRIVA: Yes. Can you explain who the imports from Southern African countries would be coming into this country in relation to the other importing countries that have access to the sugar quota here in this country?

Wouldn't they be taking away market share from the other importing countries and not --

MR. RONEY: Absolutely. There would be two negative efforts on the others. South Africa and Swaziland both have shares of our import quota as it is.

So they would have two negative effects on the other 38 countries. One is that they could potentially reduce their market share, and certainly for imports above the TRQ.

For imports within the TRQ, it would be an issue of whether access for these countries was carved out of the far minimum access requirement, which is 1-1/4 million tons of sugar per year; or whether their access would be on top of that million-and-a-quarter.

So they would be -- they would certainly have the potential of reducing the volume from other countries. There is also the potential that they could reduce the price if imports from this area prove to be excessive, and it could over-supply our market, and drive down our price.

And essentially eliminate the benefit of our preferentially priced market that provides for those countries that have shares of our import quota.

MR. PHILLIPS: If I could just follow up on that. We do of course have a WTO obligation, in terms of the current levels of TRQs. So it is hard to see how we could get away from that.

So I think the real problem for other countries would presumably be the latter one that Jack mentioned; that if you had this big influx of sugar, it is going to drive down the price, and it is going to make the existing TRQ treatment much less valuable to these other countries.

MR. RONEY: We had hoped in the NAFTA that the additional access granted to Mexico would be carved out of the WTO minimum obligation, which the administration chose to place Mexican access on top of that.

We would continue to support and to carve out an approach, because our market has the potential of being dramatically oversupplied otherwise.

MS. BONARRIVA: But you said there are two countries, two SACU countries that currently have allocations?

MR. RONEY: Yes, South Africa and Swaziland, and the testimony that we have provided looked at that. Their combined access to the U.S. market now is about 41,000 tons per year at the U.S. price and duty-free.

MR. PHILLIPS: I know you all are probably ready for lunch, but if I could make one other comment just to draw your attention to Table 1, which is a new table that we inserted today or so, and which spells out the exports of the countries for which FTAs are being contemplated.

And if you look at all these countries, they would include Thailand, because there now is a ASEAN initiative that could lead to negotiations. You are looking at total exports of close to 25 million tons of sugar.

So I think that is something for the administration to reflect on, and if the notion is that we are going to keep sugar in these agreements, I think it becomes totally unmanageable pretty quickly as far as the policy applications go for U.S. sugar.

MR. RONEY: Our total consumption is about 10 million tons. So we are looking at potential exports here of 2-1/2 times our current consumption.

MR. PHILLIPS: And so just to say one other thing. I mean, I think it is going to be impossible to satisfy the desires of these countries in an FTA context. It becomes more and more unmanageable with each new announcement.

So we would hope that the administration would just take the position that this needs to be dealt with in a WTO and can't be satisfactorily dealt with in each of the FTAs.

CHAIRPERSON SURO-BREDIE: Thank you very much. This hearing is adjourned. We will start again at 2:15.

(Whereupon, at 1:05 p.m., the meeting was recessed.)

A F T E R N O O N   S E S S I O N

(2:22 p.m.)

CHAIRPERSON SURO-BREDIE: I will begin by asking the panel to reintroduce themselves, please, starting with the Department of Treasury.

MS. SAN MIGUEL: Carmen San Miguel, with the Department of Treasury.

MS. HYLAND: Colleen Hyland from the Department of State.

MS. HAMILTON: Connie Hamilton with USTR.

CHAIRPERSON SURO-BREDIE: Carmen Suro-Bredie, Chair.

MS. ROBINSON-MORGAN: Alicia Robinson-Morgan, Department of Commerce.

MR. KARHNAK: John Karhnak, Environment Protection Agency.

MS. WHITE: Betsy White, Department of Labor.

MS. BONARRIVA: Joanna Bonarriva, from the International Trade Commission.

CHAIRPERSON SURO-BREDIE: Thank you. Our first witness will be Laura Baughman, and I hope that's right, President of the Trade Partnership, on behalf of the National Retail Federation.

MS. BAUGHMAN: Thank you. My name is Laura Baughman, and I am the President of the Trade Partnership, and I am testifying today on behalf of the National Retail Federation.

Eric Altour, who is Vice President of NRF, sends his regrets and apologies that he was unable to offer this testimony himself today. NRF is the Nation's largest trade association representing the retail industry. NRF's membership crosses the entire spectrum of retailing, an industry that in 2001 employed 22 million workers.

We hear daily how important this industry is to the health of the U.S. economy, especially now, as it provides the vehicle through which consumers purchase the goods that they need for daily living.

The NRF strongly supports a U.S.-South African free trade agreement or SAFTA. The five countries int he region have seen a substantial increase in trade and investment with the United States as a result of AGOA that is helping to support their economic and political stability and reduce poverty.

At the same time, trade and investment with these countries offer clear benefits to U.S. retailers, who are sourcing more consumer products in the region as a result of AGOA, and to their customers, American consumers, who enjoy lower prices on the duty-free goods imported from the region.

And, thus, NRF appreciates this opportunity to provide the committee with its suggestions for the process and substance of the SAFTA negotiations.

First, with respect to negotiating modalities for the market access piece of the FTA, the NRF believes that there should be no separate negotiating group for textiles and apparel outside the scope of the regular negotiations on market access for goods.

With the imminent elimination of the quota program, it is now time to treat textiles and apparel like any other good, rather than as a distinct category deserving of special treatment.

Second, all duties on qualifying textile and apparel products should be eliminated immediately upon implementation of the agreement. Presuming that SAFTA replaces AGOA preferences with respect to the five countries in the region, immediate duty elimination will ensure that those products currently getting duty-free access to the U.S. market under AGOA will continue to receive such preferential access.

It is also important that rules of origin allow for accumulation of imports from other FTA partner countries to ensure that SAFTA does not rob trade from countries in other parts of the sub-Saharan African region.

Third, NRF believes that AGOA rules for footwear should be carried over into SAFTA to ensure that preferences for SAFTA countries that they currently receive under AGOA are not diminished.

With an import penetration of 98 percent in the U.S. footwear market, there is no reason to impose more restrictive rules than are currently available under AGOA, which provides duty-free treatment for all categories of footwear from beneficiary countries in the sub-Saharan and Africa.

I would like to spend a little bit of time on rules of origin, as they have a very import on the ability of an FTA to deliver expected benefits from trade liberalization.

The NRF and others have argued often that an important goal in the negotiation of reciprocal trade agreements should be the establishment of flexible rules of origin that are commercially viable, and provide trade and investment opportunities.

To that end, the U.S. retail industry is of the view that preferential rules of origin for textiles, and apparel in particular, should be determined as with other goods according to the most significant processes performed in an FTA partner country.

Unfortunately, U.S. negotiators seem to have a preference for textile and apparel rules of origin that rely on the origin of input to determine the origin of the finished product made from those inputs.

The most common example is the so-called yarn forward rule, which in our experience frequently retards, rather than promotes, trade with FTA countries.

In addition, such rules create an anomalous situation where the effective amount of value added processing necessary for qualifying apparel is substantially higher than for all other products in the range of 80 to 90 percent.

With a wide choice of alternative supply sources, most retailers do not use trade programs with overly restrictive rules of this sort. Such an outcome would undermine the policy goals of the FTA and eliminate business opportunities for other U.S. industries in the retail supply chain, such as cotton, yarn, fabric, and apparel production.

The only way to "save" trade under these circumstances is to establish tariff preference levels that are set at current levels of trade, and do not decline with time.

But then you have added a whole other layer of complexity to the agreement and that gives retailers pause. Finally, the NRF believes that the time has come to address seriously the question of whether it is appropriate to apply anti-dumping remedies against free trade partner countries once a free trade agreement is fully implemented.

Under an FTA, foreign producers are no longer in a position to unfairly price their exports to the United States. So at least theoretically the need to use anti-dumping laws against free trade partner countries evaporates.

However, countervailing duty and safeguard measures against imports from free trade partner countries should continue to be available to domestic petitioners in appropriate circumstances, provided that the procedures for implementing these remedies are transparent and allow for the full participation of all affected parties, including consumers. Thank you very much.

CHAIRPERSON SURO-BREDIE: Thank you. The first question will be posed by the Department of State.

MS. HYLAND: Good afternoon. I have a multi-part question here. The first is what percentage of your members import apparel from the

SACU countries? Do you know that? Is it significant?

MS. BAUGHMAN: Well, I don't know the exact percentage, and it varies. It is sometimes very hard to actually calculate because a lot of retailers buy apparel from third-parties, who in-turn are the source of the goods from potential SAFTA countries and SAFTA countries.

And they don't necessarily know that is where the products are coming from, and some they do, because they are so labeled, but they don't place the orders directly.

It is a small percentage currently, but it is a percentage that we expect will increase with time because of the AGOA benefits are so attractive up to a point.

So probably -- well, certainly we know that it is no more than one percent of total apparel imports at the moment.

MS. HYLAND: Do you -- these imports are coming from the AGOA countries are what we are talking about here, the SAFTA countries, if they were able to enhance their benefits through an FTA, do you think that would drop production from other regions to Africa? Would that have any sort of effect on domestic production?

MS. BAUGHMAN: We think that it would draw sourcing away from Asia, and that is where the replacement would come, and not with U.S. producers. U.S. producers fill a particular niche in supply that is very important.

I mean, we will always be using U.S. producers of both parallel and textile fabrics. They make some specialized products that we just can't get anywhere else, and fashion necessitates that we have local suppliers for many products. We just can't -- I mean, it takes forever to get something in from Africa.

So we don't expert that expanding the benefits to Southern Africa will have a negative impact on the U.S. producers. Not at all.

MS. HYLAND: Thank you.

CHAIRPERSON SURO-BREDIE: Is there an additional question from the U.S. Trade Representative?

MS. HAMILTON: In your testimony, and in your written statement, you said that a separate textile negotiating group isn't necessary. Can you just elaborate on that a little bit?

What is the current system that we have and how would that affect circumvention rules, and rules of origin?

MS. BAUGHMAN: Typically over the last 30 some odd years, because we have had a multi-fiber arrangement, and have done the agreement on textiles, and clothing and textiles have always been considered separate.

And negotiators are -- well, it is a different group of negotiators, and they have meetings separate from all the other negotiations on tariffs. And usually the rules that apply to textile tariff reductions, if any, are considerably different than the rules that apply to tariff reductions affecting other industrial products, we have always thought that this was something that needed to change.

That textiles needed to be included as part of whatever rules that apply to steel, or any other import sensitive products, should apply in terms of tariff phase out, should apply as well to textiles.

They should not be treated specially any more. Those days are over, especially come 2005. And frankly come 2005, the whole question of circumvention is moot because there won't be any quotas to circumvent anymore.

Everything else that is relevant to textiles, and issues like labeling, are relevant to any other product imported into the United States. Again, there is no reason to treat them separately or differently.

MS. HAMILTON: Thank you.

CHAIRPERSON SURO-BREDIE: Department of State.

MS. HYLAND: At the end of your testimony, your written testimony, you mentioned a problem with trademark, and I am wondering what is the extent of the trademark issue in -- I guess it was retail trademarks and the illegal use of retail trademarks in South Africa.

Is that a growing problems, or is it a

significant problem, or is it just one that you are flagging?

MS. BAUGHMAN: At this point, it is one that we are flagging. Apparently some retailers have brought this to the attention of the National Retail Federation. It is not my understanding that it is a huge problem at the moment, but it could become one if we don't take care of it now.

MS. HYLAND: Thank you.

CHAIRPERSON SURO-BREDIE: Department of Labor.

MS. WHITE: I had just a follow-up question on rules of origin. At one point, I thought I heard you say something that the rules should include accumulation for all sub-Saharan countries, or just SACU countries.

And then the other question that I had related to the yarn forward, where you said it does or does not result in increased processing in the countries where this is in effect, or it does more?

MS. BAUGHMAN: Let me take the second one first. The yarn forward rule is a complicated thing to keep track of for retailers. The paperwork trail has to be very careful, and we have to I think in the case of NAFTA, you have to hold on to things for 3 to 5 years, a long period of time.

You have to know where the yarn was made,a nd you have to know where the fabric was made, and there is a lot of very expensive penalties if you screw up anywhere along the way.

So for dealing with such a rule to be commercially viable, it is a complicated process, and it requires the retailer to develop a whole internal system of controls, and staff to manage that kind of thing.

It is never something that anyone wants to do. I mean, sometimes the tariff reduction is not worth the cost of keeping that sort of an internal system to keep track of where the yarn was made and where -- well, where the fabric was made and to make sure that you have supporting paperwork.

And that you can present it at any time to customs or anybody else who wants to do an audit, and who asks for one. So given the choice between how much lower priced product imported from China, and something where you have to jump through hoops like you would with yarn forward under NAFTA.

Or some of the rules that are even prevalent in the Caribbean Basin Partnership Trade Act. A lot of companies have opted to just go ahead and pay the duties. It is easier and it is cheaper.

So that is one problem, and my understanding is that one of the key things that we want to do is certainly have accumulation from within SAFTA, but we want to be very careful that we don't disadvantage the other countries in the AGOA or who are eligible for AGOA. because that is a very important program to retailers, too.

So there might be some way that we can work out some related kind of accumulation type initiative with SAFTA that allows for perhaps some special inputs from the countries in sub-Saharan Africa who are not members of SAFTA.

It is again a complication issue, and it is something that we don't want to get too carried away with, because then that ultimately becomes too difficult to use.

MS. WHIT: SAFTA?

MS. BAUGHMAN: SAFTA would be, yes. Yes, I'm sorry, that was my name for it. It made it easier.

CHAIRPERSON SURO-BREDIE: Do you have any idea what percent of retailers are opting to pay for the duties rather than to use the yarn forward rule?

MS. BAUGHMAN: No, I don't, but I have heard that a lot or a number of them have mentioned this, particularly with respect to the Caribbean countries, to the CBTA program.

CHAIRPERSON SURO-BREDIE: Have you ever polled or --

MS. BAUGHMAN: I'm sorry?

CHAIRPERSON SURO-BREDIE: Have you ever polled your members?

MS. BAUGHMAN: No, not on that issue. No.

CHAIRPERSON SURO-BREDIE: That might be useful information.

MS. BAUGHMAN: Okay. I will mention that.

CHAIRPERSON SURO-BREDIE: Do we have any

other questions? No. Thank you very much.

MS. BAUGHMAN: Thank you.

CHAIRPERSON SURO-BREDIE: Our next witness is Mitchell Cooper, Counsel for the Rubber and Plastic Footwear Manufacturers Association. Welcome.

MR. COOPER: Thank you, Madam Chair. The Rubber and Plastic Footwear Manufacturers Association, as this panel surely knows by now, is the trade association which speaks for the domestic manufacturers of athletic footwear and waterproof footwear.

That is, the few manufacturers that are left in this country. The arguments that we advanced before this panel in investigations dealing with possible free trade agreements with Singapore, with Chile, with the free trade area of the Americas countries, with Taiwan, with Central America, with Morocco, with possible duty reductions in the Doha Round, and with the elimination of exceptions to duty-free treatment int he Andean Trade Preference Act, are equally applicable to Southern Africa.

The one significant difference from our

perspective between this investigation and previous ones is that as a result of the African Growth and Opportunity Act, imports of rubber footwear from Botswana, Lesotho, Swaziland, Namibia, South Africa, the countries involved in this investigation are already duty-free.

By the terms of AGOA, however. that duty-free status will end in 2008. Whereas, the proposed free trade agreement would presumably be here to stay. It is true that there is not yet a meaningful penetration of our market by imports of rubber footwear from Southern Africa.

It is also true, however, that AGOA's termination date of 2008 serves as a deterrent to investment in Southern African companies which make or could make rubber footwear.

The free trade agreement would remove that deterrent. Given the fact that low cost foreign competition has already reached the point where imports now take more than 95 percent of our market for fabric and rubber-soled footwear, more than 60 percent of our market for protective footwear, this domestic industry views with trepidation any likely removal of a deterrent to investment in Southern African manufacturers.

The companies which remain in this industry represent the survival of the fittest. They have every intention of continuing to produce in the United States, provided that there is no additional inducement for them to shift their production abroad.

We were also concerned that the proposed agreement with Southern Africa will become a precedent for still more bilateral free trade agreements. There have been so many of these that the only saving grace is that there is a finite number of countries.

What happened in the Caribbean justifies our concern for what could well happen in Southern Africa.

Duty free treatment in the CBI, where there had previously been no significant rubber footwear production, resulted in less than 7 years in an increase in annual shipments from that area from 200,000 pairs to in excess of 5 million pairs.

Finally, any additional bilateral free

trade agreement negotiated in the course of the Doha Round discussions is bound to erode our government's ability to satisfy these industry's legitimate needs in that multilateral negotiation.

The administration exercised wisdom and restraint in excluding the core products of the rubber footwear industry from duty-free treatment in the Andean Trade Preference Act on the grounds of import sensitivity.

And to the best of my knowledge the rubber footwear industry was the only one so exempted. Such wisdom and restraint that was called for in this and other bilateral investigations with which the TPSC has been concerned.

And as this committee must know in the Chile investigation, the administration chose to stand firm on the view that while there would be no exceptions to that negotiation, the phase out period for the core items of the rubber footwear industry would be much slower than that again granted for any other industrial product.

The harmonized tariff system categories

excluded from the Andean duty free treatment, and these are the categories for which we seek exclusion in this proposed agreement as set forth in Appendix 2 to the statement, and the impact of rubber footwear imports on this market, and on the industry's employment as set forth in Appendices 3, 4, and 5, and I would welcome any questions that the Committee may have.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Cooper. The first question is posed by the Department of Treasury.

MS. SAN MIGUEL: Good afternoon. Did the Rubber and Plastic Footwear Manufacturers Association support granting duty-free access to rubber footwear under AGOA?

MR. COOPER: Did it support it?

MS. SAN MIGUEL: Yes.

MR. COOPER: No, it did not. Oh, no, certainly not.

MS. SAN MIGUEL: All right. Thank you.

MR. COOPER: No, we are very consistent in our views.

CHAIRPERSON SURO-BREDIE: That's good. The ITC.

MS. BONARRIVA: Good afternoon. Could you explain how would the impact of duty free access for rubber footwear under a free trade agreement with a SACU country differ from the benefits under AGOA?

MR. COOPER: Only because they would be here to stay. The AGOA duty is with a time limitation and is a significant deterrent. Companies are constantly looking, or that is, the remaining companies in this industry, all of whom incidentally are importers as well as domestic producers.

They have to be in order to survive. But the balance of their interests as of today at approximately three o'clock is to produce in this country.

They wake up every morning wondering whether they should be having that production, but certainly if they were going to consider investing in a South African rubber footwear company, for example, they would be hesitant to do so unless this was a permanent agreement.

CHAIRPERSON SURO-BREDIE: The State Department.

MS. HYLAND: You largely answered my question. Do you currently import at all from Africa or the AGOA countries?

MR. COOPER: To the best of my knowledge, they do not now import from Africa. Most of the imports, of course, come from the Far East at this point.

CHAIRPERSON SURO-BREDIE: Are there any more questions? If not, I thank you very much, Mr. Cooper for coming. Our next testimony will be by Bernie Brill of SMART. The floor is yours.

MR. BRILL: Good afternoon. On behalf of the Secondary Materials and Recycled Textiles Association, I want to thank the Trade Policy Staff Committee for the invitation to testify today concerning the free trade agreement negotiations pending between the United States and the Southern African Customs Union.

Joining me today to help answer questions is Eric Warshaw, President of Erics Corp. and Scranton

Textile Recycling, a textile recycling firm headquartered in Pennsylvania.

Mr. Warshaw has extensive knowledge and 27 years of experience exporting used clothing to Africa. The Secondary Materials and Recycled Textiles Association is a 70 year old trade association representing companies who recycle clothing for export markets around the world.

Thousands of people are employed in the United States collecting, processing, and inspecting, and packaging this commodity. This industry not only creates and maintains thousands of jobs nationwide, but also diverts billions of pounds of textile materials each year from the waste stream.

Because of the work carried out by our industry, every year millions of dollars are directed to the various charitable organizations, such as Goodwill International Industries and the Salvation Army, who collects these materials.

What is not sold in their respective thrift stores is sold to textile recycling facilities, members of our industry. It is also important to note that the United States itself is the world's largest market for recycled clothing.

Recycled clothing prepared for export to Africa is carefully selected to fulfill the need of each particular market where it is openly traded. It is a high demand product in countries with populations of modest means.

Many citizens of African countries cannot afford to pay one-tenth to one-quarter of their annual income for a new shirt or a new pair of trousers. Trade in the used clothing market, where it is permitted to exist, allows citizens in the importing countries to dress themselves adequately, while here in the United States it creates thousands of jobs and keeps our landfills from being clogged with perfectly good reusable clothing.

Comparative advantage dictates that new clothing produced in Botswana, Lesotho, Namibia, and South Africa, and Swaziland, should be marketed freely in developed countries, including the United States, to gain maximum revenues.

Used clothing generated from the clothing produced in these regions and imported to the United States should be exported back to clothe their poor populations.

Nonetheless, the SACU countries have a long tradition of putting up various kinds of trade barriers to the import of recycled clothing. South Africa has regulations in place which form an effective ban.

Clothing is listed as a restricted commodity which is prohibited, except in the rare instance when one is able to secure an import permit from the Department of Trade and Industry.

However, in the rare case the new import permit is granted, the commodity is then subject to an excessively high duty rate. According to figures provided by the Department of Commerce, the duty rate is 60 percent of the total import, or 25 South African rands per kilo, whichever is higher.

SMART estimates that these duties to be approximately 100 percent of FOB U.S. port value of goods. Other countries in Southern Africa, such as Lesotho, effectively ban the import through the imposition of prohibitively high tariffs.

Arguments for restricting trade in used clothing range from accusations that the import of used clothing is tantamount to dumping our waste products, or spreading disease to simply unapologetic excuses of protecting the domestic textile industry.

Officials in these countries refuse to recognize that their poor constituents cannot afford to buy their locally produced new clothing. Traditionally, rather than recognizing that the best market for their manufactured clothing is the United States, the policy has been to try to force the local populations to buy the local product and ban our more affordable used products.

Despite SACU governments' best efforts to ban the trade, there is a strong demand for used clothing in Southern Africa. A stroll through downtown Johannesburg, the townships. or in various markets in Botswana, will show that used clothing is popular, and is being smuggled through nearby countries.

Additionally, SMART member companies

periodically receive inquiries from South Africans wishing to import used clothing, but are apparently unaware of their own government's restrictive policies.

We propose that removing trade restrictions on recycled clothing in this region, the various governments would be able to significantly augment their customs revenues.

SMART estimates that at least for now recycled clothing imports into this region could easily tolerate duties, including any sales or value added taxes of 30 to 40 percent.

Furthermore, independent studies of other African countries suggest that the open distribution and sale of recycled clothing in Southern Africa would create jobs and economic growth through the development of a new market sector.

Market access is a key issue for the recycled clothing industry in the United States. An environment of free trade, with the benefits from the African Growth and Opportunity Act, States that Southern Africa should be able to open up their borders to trade and recycled clothing resulting in benefits to the States themselves and their citizens.

Mr. Warshaw and I will be happy to answer any questions that you may have at this time. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you very much, Mr. Brill. The first question is from the Department of Labor.

MS. WHITE: Maybe I wasn't quite sure I heard you right about your industry creates thousands of jobs in this country, and it could create jobs in Africa. What kinds of jobs would be involved or are involved here and would be involved there?

MR. WARSHAW: Well, for example, there are processing plants in the United States where the goods are sorted and packed, and inspected, and graded, and baled, and those are the jobs that we are talking about.

And not to mention jobs for the general export sector, and there is handling, and there is shipping.

MS. WHITE: And then there would be

similar kinds of jobs in Africa?

MR. WARSHAW: Oh, absolutely. There is is a whole distribution process in countries where this is ongoing in Africa, and a number of countries, and Tunisia and Uganda come to mind in particular, where there are enormous numbers of jobs that have been created.

MS. WHITE: And so opening up -- you said that we wouldn't need to necessarily go to duty free, but that they could still handle -- you could export a lot even with a reduction, or a high tariff, but --

MR. WARSHAW: Right. And I say including whatever additional taxes at entry that might come up, such as value added taxes or a general sales tax, whatever scheme the country has, we could tolerate 30 or 40 percent taxes on those goods.

And it would stimulate the import of a value added product to those countries.

MS. WHITE: Okay. Thank you.

CHAIRPERSON SURO-BREDIE: The next question is by the Department of Commerce.

MS. ROBINSON-MORGAN: Do you have any data that shows that imported recycled clothing does not compete with domestic textile manufacturing in SACU countries?

MR. WARSHAW: Does not? We couldn't possibly give any data, because it has been banned. You know, the clothing that you tend to see is clothing that has been smuggled through, and you tend to see that either in small flea markets, and mostly in flea markets throughout Johannesburg.

And you can find them out in the streets in downtown Johannesburg. You can see it in Lesotho. But we can't comply with that, because technically there is no data to be compiled.

MR. BRILL: I would like to add those that there was about 1995 a Swisse study done that talked about other African countries that do import used clothing, and saying that it does not compete with domestic apparel business.

It really has no effect and it is apples and oranges, and I have a copy of that in the summary of the report if you would like to see it.

MR. WARSHAW: I would say the answer to

your question is more of a common sense answer. Most people, if they could afford it, would rather buy new clothing, and I think that is just a normal fact of life.

The point is that they can't, and I think that anybody who has done any economic studies in international trade would realize that the market for the new goods that would be produced in Southern Africa would be in developed countries, because they can get the most revenue from those goods.

Whereas, on the other hand, when the increased quantities of clothing are brought into this country, and are eventually over a two year span disposed of, would somehow environmentally like to keep them out of our waste streams, and process them so that they could be consumed in some other form, and this is a way that we are doing it.

CHAIRPERSON SURO-BREDIE: Could you submit a copy of the Swisse study to the panel?

MR. BRILL: Yes, sure.

CHAIRPERSON SURO-BREDIE: If you could send it electronically if you could to Gloria Blue, at gblue@ustr.gov, and then she can distribute it to the panel.

MR. BRILL: Sure, I would be happy to.

CHAIRPERSON SURO-BREDIE: The next question is by the International Trade Commission.

MS. BONARRIVA: I was wondering if you had made any estimates of lost sales due to the ban on recycled clothing in the SACU countries?

MR. WARSHAW: We had not, but we could poll our members and get you a figure if you wanted one. That would be fairly easy to do. Just by taking a look at nearby countries with similar-sized populations, and similar economies, and coming up with an estimate, yes, we could do that.

CHAIRPERSON SURO-BREDIE: The last question by the Environmental Protection Agency.

MR. KARHNAK: Good afternoon. One of the concerns that we sometimes hear is that there are health precautions or health concerns about having used clothing brought into a country, and can you tell us about what some of the steps are taken to make sure that the clothes are sanitized and free of health concerns?

MR. WARSHAW: For many countries where that has been a concern, we generally provide a verification of fumigation of the clothing.

MR. KARHNAK: Are they also washed, or are they just fumigated? What are the steps?

MR. WARSHAW: Very often they are washed, and not all are washed, but at the very minimum they are fumigated.

MR. BRILL: To process the clothing, the clothing is inspected during the process, because each piece has to be inspected. If it is soiled, or damaged, it automatically gets removed from the line.

MR. KARHNAK: Thank you.

CHAIRPERSON SURO-BREDIE: An additional question by the USTR.

MS. HAMILTON: Mr. Brill, the last time we met, we talked about some of the myths that are associated with used clothing, and I thought you said that your organization was going to work to dispel some of those myths in Africa. Have you started doing that, and can you tell us the outcome of some of your outreach efforts?

MR. BRILL: Well, recently in Cameroon, there was a move to ban clothing there, and we worked through the Department of Commerce and the good folks there, and convincing them that clothing is clean, and it is sanitary.

We have got letters in our files, two letters in our files from the CDC stating that you cannot get AIDS from used clothing. So in the Cameroon market, for example, they ended up just banning certain items, and everything else was allowed in.

It is kind of hard to disprove some of these things when you talk about, for example, that used clothing competes with new clothing. I mean, in your minds, and as Eric said, that most people would prefer to buy new clothing, but they often can't afford it.

So at least they have a quality item that they can afford.

CHAIRPERSON SURO-BREDIE: Thank you very much. Our next witness is Mr. Will Stephens, Vice

President of International Government Affairs, Corporate Staff, on behalf of the U.S.-South Africa Business Council.

MR. STEPHENS: Good afternoon.

CHAIRPERSON SURO-BREDIE: Good afternoon. The floor is yours.

MR. STEPHENS: With me is Emily Bennett-Solomon, managing director, U.S.-South Africa Business Council. Again, I am Will Stephens, co-chairman of the U.S.-South Africa Business Council's Coalition on U.S.-SACU free trade agreement negotiations, and the Vice President of International Government Affairs for Johnson and Johnson.

I want to thank you for the opportunity to testify today on the free trade negotiations that are about to begin between the U.S. and the South African Customs Union.

The U.S. and South Africa Business Council was established in 1993 as an advocacy organization for U.S. companies that engage in trade and investment with South Africa.

We have consequently been deeply involved in the evolution of commercial relations since the lifting of U.S. sanctions in South Africa since 1993, including coordinating private sector input to the U.S.-South Africa Binational Commission, and its successor, the U.S.-South Africa Cooperation Forum.

We applaud the USTR decision to negotiate a free trade agreement with the Southern African Customs Union, including Namibia, Botswana. Lesotho, Swaziland, and South Africa.

The U.S.-South Africa Business Council strongly endorses these negotiations. A free trade agreement is the logical next step in developing deepening or bilateral commercial relations.

It constitutes a strong sequel to the African Growth and Opportunity Act, of which the Southern African region has been a major beneficiary, and the U.S.-South Africa Trade and Investment Framework Agreement, TIFA, in 1999.

At the time of the TIFA signing the U.S.-South Africa Business Council advocated free trade negotiations as long as the Bilateral Investment Treaty, which U.S. investors see as critically important.

The U.S.-South African Business Council is sponsored by the National Foreign Trade Council, and for almost 9 years the National Foreign Trade Council has worked to promote an open rules based world trading system.

Our mission is to assure that our member companies have the opportunity to pursue active commercial engagement that creates economic opportunity both at home and in foreign markets that they enter.

We believe that these negotiations are important for four reasons. First, to restore competitive advantage lost by the South Africa EU FTA, and importantly the U.S.-SACU FTA will help level the playing field for U.S. countries in South African markets, vis a vis European competitors which have been benefiting from the South Africa-European Union free trade agreement since its inception in the year 2000.

U.S. suppliers took a heavy blow as a result of South Africa-EU FTA, as many South African government procurements subsequently went to European suppliers. Second, the Doha agenda of WTO negotiations has demonstrated the importance of constructive engagement with developing countries in crafting consensus over trade liberalization measures.

The U.S.-SACU FDA negotiations will expand U.S. ties with an important developing country that supports trade liberalization and economic reform at home as key ingredients of development.

This, in-turn, will demonstrate to other developing countries the strategic importance and benefits of moving forward with the new WTO round of trade talks.

The South African Government is a progressive developing country voice in support of the successful conclusion of the Doha agenda of the WTO multi-national trade relations.

South Africa has been and we hope will remain an important developing country role model of the benefits of opening up its economy in rules based in a transparent manner.

The proposed free trade agreement would

support South Africa's commitment to transparency, openness, and the rule of law, and would include increased protection for intellectual property.

We also support specific provisions to encourage the development of e-commerce. Since assuming office in 1994, the Government of South Africa has pursued sound macroeconomic and monetary policies.

Above all, it has opened its economy, previously one of the most protected in the world, to foreign competition. It has sought foreign direct investment which it correctly sees as necessary to stimulate economic growth and job creation.

These policies have not been without their costs or their controversy, but the South African Government has persisted in these policies. A successful negotiation of an FTA with the U.S. would be an important practical step by among other things locking in the AGOA benefits after it expires in 2008, and highly significant in demonstrating the ability of the U.S. and these regional partners to take a dramatic step together.

It is important that this is a regional multi-lateral negotiation. The Southern African region is bound together by a number of economic and political agreements. Regional economic integration has been gradual since South Africa's economy dwarfs those of its neighbors.

South Africa's population is 43 million, and Swaziland's population, for example, is 1.1 million. These economies compete in many product areas and are not naturally complimentary.

A free trade agreement wit the U.S. holds out the prospects of stimulating greater regional integration and thereby enhanced efficiencies in these economies.

South Africa's economy is the largest in the African continent, and the political and economic success of South Africa and its democratic government are widely regarded as key to the success of the continent.

Many U.S. companies that have located in South Africa have done so with a view of expanding their operations into the continent, and they are currently doing so. It is manifestly in the foreign policy interests of the United States to promote a vibrant and growing economy in Southern Africa.

There is bipartisan consensus in the U.S. that this is best achieved through trade and investment, and through private sector economic activity. There are, however, a limited number of instruments available in the U.S. government to stimulate developing economies.

Free trade agreements are one powerful such instrument, signaling to investors and exporters a sound framework has been established within which they can expand private economic activity.

To support the negotiations the U.S.-South Africa Business Council has established the U.S.-SACU FTA Coalition, which will serve as a vehicle to provide business input to USTR negotiators as the process unfolds.

This coalition, which I chair with Mike Evans, Vice President of Maurice Pincoffs Company, consists of companies from all the major sectors of the United States economy that trade with and invest in SACU countries, as well as State Trade Development Offices.

We will be providing written and oral comments on the U.S. industry needs and concerns for this agreement on an ongoing basis. We will address any questions.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Stephens. The first question will be posed by the Department of Treasury.

MS. SAN MIGUEL: Good afternoon. I actually have a two-part question. The first is I am wondering if you could just give me a sense of what type of losses. You mentioned restoring competitive advantage, and so I am wondering what type of losses U.S. companies have faced as a result of the EU-South African agreement.

And then the second part of my question is just that in light of that agreement, what approach or what modifications to our approach would you think would be most effective if we proceed with these negotiations?

MS. BENNETT-SOLOMON: The losses of the

U.S. businesses. precipitated by the U.S.-EU free trade agreement, actually came even before that agreement came into effect in January of 2000.

It was almost a psychological impact, in that the South African Government procurements and some major private sector procurements, but largely South African Government procurements, all started going European.

And U.S. companies right and left, major companies, with very high name recognition for their products and their companies, were no longer winning contracts.

And at the time Minister Irwin made a very public announcement and said that this is a strategic turn toward Europe and it is intentional. Essentially signaling to the South African business community that Europe was going to be it, and the United States definitely was sort of downgraded in terms of its business as a supplier.

MR. STEPHENS: I think that we would recommend that we solicit input from the SACU countries in terms of what motivated them to do business with the Europeans, and to integrate them into the discussion relative to the United States.

MS. BENNETT-SOLOMON: Now, there are some companies specifically who are going to be impacted with respect to the tariffs when South Africa's tariff reductions start to take effect.

But we also have companies that are benefitting from the tariff reductions. But I think that they have probably already stated their case to you. Oh, the second part of the question.

And at least as I understand it, and you can correct me if I am wrong, but I would not recommend changing your approach. I mean, the approach, vis a vis how Europe approached it, or vis a vis how we are approaching other free trade agreements?

MS. SAN MIGUEL: Both.

MS. BENNETT-SOLOMON: I think one of the most important things that USTR can do as this process unfolds is what USTR is planning to do, and that is the technical assistance proposal as I understand it I think will be invaluable to this process and very,

very helpful.

And that is just based on my own experience in negotiating with the South Africans. And that there were at times -- I mean, this was a country that had just been brought back on the world's stage, and I don't think even in touch with the WTO obligations at the time.

So there was some catch up that had to take place, but there was also some semantics. I mean, we ran into semantic issues. But I think that I would definitely -- and not to say a slow approach, but I would say an extremely methodical approach, and one that -- and allowing the fact of countries to advise you on how it should be modified if they feel that is necessary.

CHAIRPERSON SURO-BREDIE: Yes, Department of Labor.

MS. WHITE: I have sort of a follow-up question to the ones that we were asked. What kinds of companies, and industries, and products, are involved in your organization?

What kinds of trades do you have that are in jeopardy or would you like to promote; and also in terms of -- and I noticed that you mentioned government procurement, and that you had lost, or that this was a significant part of your concerns, was the procurement by the South African Government.

I don't know that much about our trade with South Africa or an of those countries, and is the government the major source, or a major source of sales of most U.S. products?

And in that case isn't a government procurement element of the agreement something that might be significantly more important to you than just lowering tariffs?

MS. BENNETT-SOLOMON: The U.S.-South Africa Business Council is a membership organization of U.S. companies that invest in trade with South Africa, as well as companies that are exploring investment and trade relations with South Africa.

We represent the bulk of U.S. investment in South Africa currently. A number of our members do do business in the region, and all of our managing directors that are based in South Africa have a mandate to expand their business operations into the rest of Africa, and I mean sub-Saharan entirely.

MS. WHITE: Well, like the drug companies and pharmaceuticals?

MS. BENNETT-SOLOMON: Yes.

MS. WHITE: Are there other types of companies?

MS. BENNETT-SOLOMON: Yes. Essentially we have companies that represent every sector, and I think with the exception of agriculture, are members of the business council.

And as I was using that as an example because often times I think people think, well, how does a free trade agreement impact your business situation.

And I think that people immediately jump to the tariff reduction issue, and that's why I want to say that there was a profound impact on government procurement.

Now, 10 years ago before the South African Government started privatizing, you have to understand that the South African Government represented 67 percent of that economy.

The South African Government procurement is a very big -- and obviously not the only aspect of our business interests in the country, but it is a large part of it.

And you do have a number of U.S. companies whose very presence in that market depends upon government procurement. Companies have different strategies that they follow and there are a number of them who follow the strategy of let's get into the country, and get the government procurement contracts, and from there expand into the local economy.

Not all of them do that, but some of them do, and I would say the information technology companies do that.

MR. STEPHENS: And certainly from a pharmaceutical standpoint, I would be remiss if I didn't mention intellectual property protection is an issue that we would see as fundamental as part of the discussions; and data protection linkage to registration, et cetera.

And certainly there are others that would come to mind as part of the discussions as they do in other parts of the world.

CHAIRPERSON SURO-BREDIE: We have additional questions from the USTR.

MR. MOORE: Thank you very much for your testimony. You mentioned the importance of this FTA and the possibility to promote the further integration of these countries, and certainly that is something that we are looking at as an aspect of this.

I just wonder if you have some specific ideas. You mentioned the lack of natural complimentarily here with some of these countries. Are there specific things that we can be looking at as part of this trade agreement to promote some of the regional integration.

And are there things that we can be doing specifically in that regard that are also not going to create additional burdens in themselves?

MR. STEPHENS: I think the Apartheid era is the primary reason that there is a lack of integration in the region, and I am not sure that we can or would want to intentionally graft regional integration via the free trade agreement.

The risks in attempting to do so would be to create distortion in an unexpected place. From a business perspective, the best way to promote regional integration is to bring down all the barriers and to harmonize the cross-border business environment beyond the common occurrence.

MS. BENNETT-SOLOMON: Chris, it is an interesting question. We can poll our managing directors in South Africa about that as well, and see whether they have any specific thoughts, which will be industry specific.

MR. MOORE: I just wonder if there may be areas -- you talked about the harmonization of some of these policies. There may be areas where these countries are pursuing some of those things already, and perhaps this may provide some impetus for those plans.

Just to hit on a second point, you mentioned the possible benefits for some of our WTO work and bring some of these countries into our work and global liberalization.

And I just wonder if you had some specific views on how we might improve our efforts to work with some of these countries in the WTO to bring additional African countries on board in our WTO work, and commitments for reform, and how this might be of benefit to them.

MR. STEPHENS: I think the key is to be able to show countries the why and how on how greater reform can be in their best interests. In order to do this, I think we need to truly understand the situation there.

Due diligence, communication, and asking for input, and sensitivity to their issues is certainly key to making that happen. And the lack of doing that has caused negotiations in the past to run afoul. So that is just a common approach to kind of getting input from the various countries.

CHAIRPERSON SURO-BREDIE: Additional questions? If not, thank you very much. Our next witness is Mr. Jacques Walker, President and CEO of the Southall Walker International on behalf of Constituency for Africa.

MR. WALKER: Good afternoon. On behalf of the Constituency for Africa, its Chairman of the Board, the Honorable Ronald Dellums, former Member of the U.S. House of Representatives, and its Vice Chairman, the Honorable Jack Kemp, founder of Empower America, and former Secretary of Housing and Urban Development; and CFA's founder, and President, and CEO, Mr. Melvin Foote, I am pleased to submit this statement in support of the proposed free trade agreement negotiations between the United States of America and the Southern African Customs Union.

Again, my name is Jacques Walker, and I am here in my capacity representing the Constituency for Africa as Director of their Africa Trade and Investment Policy Program.

As a U.S. non-governmental organization, the Constituency for Africa, or CFA, fully supports the Office of the U.S. Trade Representative in its efforts to implement in substance and in spirit the policies and procedures as identified in the African Growth and Opportunity Act, and in these proposed free trade agreement negotiations with the Southern African Customs Union.

On behalf of the CFA, I would also like to acknowledge the tireless and selfless efforts of the outgoing U.S. Trade Representative for Africa, Ms. Rosa Whittacker.

In our opinion, without the efforts of Ms. Whittacker and the bipartisan leadership provided by U.S. Representatives Phil Crane, Will Jefferson, Bill McDermott, and Charlie Rangel, Senator Phil Gramm, and others, including Charles Williams, Mike Williams, former Chief of Staff for Congressman McDermott, there would be no AGOA.

We applaud their efforts and hope that the record continues to accurately reflect the individuals and organizations that work for the passage of AGOA. With these comments, CFA intends to clearly acknowledge our support for USTR, and for the proposed negotiations with the Southern African Customs Union, provide input as to the issues we feel must be a material component of these negotiations, and offer recommendations to accomplish such.

Since 1997, CFA, a Washington, D.C. based education and advocacy organization

, has been in the forefront among U.S. NGOs to build political support for the passage of AGOA.

AS part of its advocacy campaign, CFA organized more than 15 townhall meetings in cities and towns across the country, including in Memphis, Tennessee, Denver, Little Rock, and Los Angeles, to publicize and build support for the AGOA legislation.

By taking the discussion about AGOA outside of Washington, D.C., CFA helped to provide the necessary information to a broad domestic constituency and encouraged African supporters across the United States to effectively pressure their elected representatives, both Democrats and Republicans, to support AGOA.

The CFA townhall meetings featured African diplomates, Members of the U.S. Congress, private sector leaders, and officials of U.S. Government Trade Agencies, including the USTR, Commerce Department, OPEC, Exim Bank, and TDA.

The CFA was especially instrumental in mobilizing the African diplomatic corps to play a leadership role in the passage of AGOA by ensuring that the African Ambassadors were featured at all the key meetings and events to buttress support for the legislation.

Following the passage of AGOA, the CFA continues to play an active role in promoting trade with Africa. In early 2002, the CFA, with funding support from USAID, launched a new initiative to link U.S. small and medium skill enterprises with SMEs and opportunities throughout the sub-Saharan Africa.

A key element of this initiative is to train and help build the capacity of the African Embassies generally and the African commercial counselors specifically, to assist in the development of an infrastructure to provide ongoing support to U.S. and African SMEs and women-owed business enterprises

CFA's President, Mr. Melvin Foote, is always working. Mr. Foote said AGOA, and I quote, AGOA has already been instrumental in establishing a new relationship, a new U.S. relationship with Africa. While it is still very early, it is increasingly clear that the U.S. Government and the American business community are now looking at Africa more as a political and economic partner than as a place of despair and hopelessness.

A real key to the success of AGOA will be to ensure that African-Americans and the small business community are fully included and integrated into this new partnership.

As the United States prepares for free trade agreement negotiations with the five countries of SACU, Botswana, Lesotho, Namibia, South Africa, and Swaziland, the CFA urges the full consideration of the following.

One, small business participation. In the U.S., small business is indeed the engine for growth. Approximately 97 percent of U.S. companies that export are small businesses.

In the U.S. between 1987 and 1997, the number of U.S. small businesses that exported tripled from 65,900 to 202,185. Small business growth has created nearly all of the over 20 million new jobs in the United States since 1992.

By supporting small business development domestically, jobs have been created and the quality of life has been improved for millions of American families.

The model in the United States, as implemented by the U.S. Small Business Administration, by the U.S. Department of Commerce, by the Minority Business Development Agency, has been proven to work.

While there are still areas for improvement, there does exist a viable model that can be modified and utilized in sub-Saharan Africa. To that end, any negotiations between the United States and SACU must address a pragmatic strategy to better include U.S. and African micro, small, medium-scale, and women- owned business enterprises.

These entrepreneurs and companies require a variety of services, including trade capacity development, access to market information, and access to debt and equity financing, and direct business to business linkages.

There are a number of private sector organizations and NGOs, including CFA, that have a demonstrated capacity to assist U.S. and African SMEs in this process.

The governments of the United States and the countries of SACU must critically assess these efforts and allocate sufficient funding resources to ensure that these types of programs remain viable.

Point 2, trade capacity building. As mentioned above, the CFA believes it to be of critical importance that sufficient resources be earmarked for trade capacity development as it pertains to U.S. and African SMEs and women-owned business enterprises.

To be effective and approach leverage as a partnership between the public and private sectors must be developed and implemented. The U.S. is in a unique position given the experience and expertise of its NGOs, Small Business Administration, Commerce Department, and Minority Development Business Agency, to assist the countries of SACU, develop an infrastructure to support the development of African SMEs and women-owned business enterprises.

These U.S. government organizations and NGOs must be given a clear mandate and the appropriate resources to act in the capacity described. In closing, the CFA is a U.S. NGO active in the implementation of AGOA, and in providing support services to U.S. and African SMEs and women-owned business enterprises, supports the USTR in its proposed free trade agreement negotiations with SACU.

These free trade agreements as called for in AGOA represent the next step in the full implementation of AGOA, and require the support and cooperation of the U.S. private sector and civil society.

While AGOA is not perfect legislation, it does represent a meaningful development in the history of U.S.-Africa relations. AGOA for the first time established a formal U.S. trade policy with the nations of Africa, and created vehicles for policy dialogue and for free trade agreements, such as this proposed agreement contemplated between the U.S. and SACU.

As we enter this new and exciting chapter in U.S. relations with Africa, we must continue to strive for a relationship that is rooted in partnership and not in exploitation.

This must be a balanced relationship that effectively establishes protocol for trade and investment, while also dealing with economic development, and poverty issues of critical importance throughout Africa, such as HIV/AIDS, tuberculosis, and malaria.

The CFA is committed to working with the USTR in the implementation of AGOA and in support of a free trade agreement with SACU. On behalf of the CFA, I thank the USTR for the opportunity to submit these comments, and I welcome any questions. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you, Mr. Walker. The first question will be asked by the Department of State.

MS. HYLAND: You advocate in providing support services and trade capacity building for U.S. and SACU's SMEs. How could this support be part of the U.S.-SACU FTA negotiations? Do you see that fitting in that in some way?

MR. WALKER: I am not sure how it directly fits in, but I think again as the agreement, the overall agreement is being negotiated -- and I know that trade capacity development seems to be of critical importance to Ambassador Zoellick, and we hear him talk about that in a number of ways.

How specifically it is to be incorporated, we are not sure, but in terms of the implementation, we feel that as these markets are opened up, we have to find a way to include the small businesses so that they can participate in these new opportunities.

So I don't have any specific recommendations there, but I can certainly maybe come back to you with a list of recommendations in that regard.

MS. HYLAND: Has the CFA been involved -- and, oh, I think I know that they have -- in some trade capacity building and through AGOA that you think would be relevant to what we are doing here in SACU?

MR. WALKER: Well, the CFA has, as other NGOs. I know that the Corporate Council on Africa has been involved and I think they are doing some things in East Africa that could possibly be a model.

But CFA specifically has, and there are other NGOs that have been involved specifically working with U.S. small businesses, as well as African small businesses. So, there are, and I could provide you with a list to the best of our understanding of some of the NGOs and what they are doing if that would be helpful.

MS. HYLAND: I think that would be helpful, yes.

CHAIRPERSON SURO-BREDIE: If you do, and you are able to do that, if you could send it to Gloria Blue, gblue@ustr.gov.

MR. WALKER: Okay.

CHAIRPERSON SURO-BREDIE: She will distribute it to the panel members.

MR. WALKER: Okay.

CHAIRPERSON SURO-BREDIE: The next question is by the USTR.

MS. HAMILTON: Based on all of the experience that the CFA has in working with small and medium-sized businesses, can you just give me a short summary of what you think their concerns are regarding the FTA, and how you think we can address some of those issues within the context of the negotiations?

MR. WALKER: Okay. Well, from our experience, and let me just start answering that somewhat broadly, and then narrow in. From our experience the concerns that both the U.S. and African small businesses have had,or are having, are many.

There is obviously how to establish direct business to business connectivity. There is access to market opportunities. Some have a product or service with identify the market or qualifying the market, or qualifying or identifying rather a potential partner, or old challenges, particularly for the African companies, with the U.S. being such a large market.

And so there is market information, reliable market information, and there is access to capital. There again are the direct business to business linkages. Those are some of the general concerns that we are hearing from our small businesses here, as well as from the small businesses that we are working with in Africa.

In terms of how that can be incorporated into the negotiations, and I think that gets back to the earlier question, and I am not sure exactly how best it can be.

But when we talk about capacity development, and I know that again there are a number of NGOs, both U.S. and African, that are addressing the trade capacity issue, as well as there are a number of NGOs that are looking at facilitating direct business to business linkages.

So maybe it is looking at how a partnership, an effective partnership, could be developed with the governments participating in the negotiations and civil society, to see how civil society can play that implementing role.

So I don't know if that is specific enough, but I think that there has to be that type of partnership because there are NGOs that can really do that. And I think with the expertise that the Small Business Administration has, that the Minority Business Development Agency has, that the Commerce Department has, that can be leveraged and the NGOs can help implement those types of services to ensure that small businesses and women-owned businesses, are represented in this process.

MS. HAMILTON: Thank you.

CHAIRPERSON SURO-BREDIE: Any additional questions from the USTR?

MR. MOORE: Just listening to some of the challenges that you mentioned for small and medium-sized enterprises in international trade, the access information and access to market information, and access to connections with some partners, and potential customers overseas, I just wonder how or whether we may have an opportunity to address some of these issues in the agreement itself, in terms of some of the transparency things that we may look at in terms of some of the things that we may look at on electronic commerce.

And are these areas where we may be able to kind of build in some things that would help small businesses?

MR. WALKER: I think there are, and I think even as you look at AGOA itself, and with the passage of AGOA and then some of the things that USTR has been doing since in partnership with the Commerce Department, and the Commercial Law Development Program, and with these AGOA forums that are being held throughout sub-Saharan Africa.

And I think that is a -- I mean, there is a model if you will, but if you look at some of the things, and I participated in four of those forums in Africa last year or this year.

And as the actual implementation, and you have the AGOA legislation, but if you don't have companies that can get products and services to market, then what good really is it.

So I think that looking down the line, once you have the open market, certainly the larger companies are going to benefit, and they will benefit whether there is the free trade agreement or not.

But looking at some of the challenges that companies are facing with AGOA now, I think that we can anticipate some of the obstacles that the small and medium scaled companies in the SACU area will face, and maybe look at that as we think about implementation.

But again how directly that should be or involved in the actual negotiations, I am not sure, but as we look beyond the actual negotiations and implementation, we have to consider that impact.

CHAIRPERSON SURO-BREDIE: One additional question?

MS. ROBINSON-MORGAN: Yes, I have a follow-on question. Knowing that there is actually in most cases a large discrepancy between American SMEs and African SMEs, meaning that the American small and medium-sized enterprises tend to be actually much larger than the African ones, I am just wondering is that a component that you think should be addressed within the trade capacity building aspect that you previously mentioned?

MR. WALKER: We have had some challenges actually identifying and qualifying, or actually defining rather what a small business is. I mean, certainly here a small business is considered a company with fewer than 500 employees.

And where throughout sub-Saharan African unfortunately that same definition does not apply. So maybe there is a need to take a look at how we are categorizing these companies, because they have different needs.

Even here, you know, the micro enterprise versus the small business -- I mean, they have different needs that are distinct. So perhaps there may be something that could be looked at to really define and categorize these companies and then better target the type of services that the would require.

MS. ROBINSON-MORGAN: Thank you.

CHAIRPERSON SURO-BREDIE: Thank you very much, Mr. Walker.

MR. WALKER: Thank you.

CHAIRPERSON SURO-BREDIE: Our last witness is Mara Burr, for the Humane Society of the United States.

MS. BURR: Good afternoon.

CHAIRPERSON SURO-BREDIE: Good afternoon.

MS. BURR: I guess being first or last has its challenges anyway.

CHAIRPERSON SURO-BREDIE: You may begin

when you are ready.

MS. BURR: Thank you. My name is Mara Burr, and I am the Special Counsel for International Trade Policy for The Humane Society of the United States. And I am thankful for the opportunity to speak to you today.

The five countries included in the proposed free trade agreement negotiations -- Botswana, Lesotho, Namibia, South Africa, and Swaziland -- are at different stages of economic and political development. Each of the countries are members os the World Trade Organization, and are beneficiaries under the African Growth and Opportunity Act.

At a minimum these countries have demonstrated a willingness to embrace free trade, and economic development based on free market principles. The United States must evaluate the extent to which increased trade and investment between it and the countries of Southern Africa will be beneficial.

Different sectors of the U.S. economy will be impacted in different ways, and to various degrees, depending on the extent of the domestic producers are engaged in international competition with products from these countries.

The United States must take into account the extent to which a free trade agreement will benefit the countries of Southern Africa, and the potential dangers that an FTA might present.

A free trade agreement should assist the countries of Southern Africa in their development, both economically and politically, while at the same time respecting the sovereign right of these countries to set their own priorities for development.

In keeping with this principle, it is important to respect the sovereign right of nations to protect their markets from goods and services that they deem to be a danger to their human, animal, and plant health, or are determined to be abhorrent to their population.

And in that regard I am talking about bans like the United States has imposed on the importation of dog and cat fur. Free trade and economic development should be supportive of domestic laws and regulations intended to protect endangered species, the environment, and to promote animal welfare.

For example, Botswana and Swaziland ban the use of steel jaw leg hold traps. The proposed free trade agreement with the United States should respect the ban imposed on leg hold traps by these countries, and ensure that the ban will not be attacked under the agreement.

The proposed free trade agreement with South Africa must promote sustainable development in these countries, sustainable development which is does not endanger the natural environment, compromise health and welfare of humans, or threaten the habitat of native species.

Preserving and protecting the natural resources and the environment are important aspects of sustainable development. The proposed FTA should enshrine a commitment from all parties to effectively enforce their environmental laws.

The proposed FTA should provide a mechanism whereby environmental laws of the parties, and the enforcement procedures, are reviewed on a consultative basis, with the aim of improving and strengthening both.

The proposed FTA should provide for civil society participation concerning environmental protection and enforcement. There should be a mechanism in the FTA allowing for civil society submissions on environmental matters, requesting reports, or to initiate a dispute for an alleged failure to effectively enforce domestic environmental laws, including the failure to comply with international obligations.

Protection of endangered species, and animal protection, and welfare laws, should be included under the broader heading of environmental protection, unless the countries decide that it should be listed separately.

The same civil society participation rights should be agreed to for animal protection and welfare laws. The parties proposed FTA should encourage the use of labeling for all products. Agriculture is an important component to the economies of the South African Free Trade Agreement countries.

I'm sorry, the Southern African Free Trade Agreement countries.

The parties to the SAFTA should allow for participation of protection of sensitive products, and sectors in the event of market surges or unfair trade practices.

The economic future of the SAFTA countries will depend in large measure on how each is able to develop and expand its agricultural sector. Many of the SAFTA countries are experiencing severe environmental problems brought on or exacerbated by unsustainable agricultural practices, including over-exploitation of land and water resources, degradation of forest lands, depletion of forest resources, decertification of air, water, soil, and solid waste pollution, and limited fresh water resources.

The proposed SAFTA should encourage sustainable agricultural development and provide technical assistance so that these countries can implement better agricultural practices and protect the environment.

One particularly horrible practice that is unsustainable is industrial farming. Factory farming methods should not be forced upon developing and least-developed countries.

And the United States should not encourage the adoption of these unsustainable agricultural practices in developing and least-developed countries. The proposed SAFTA should provide for agricultural phase in periods to account for each of the country's level of development and ability to fully implement its obligations.

Verified organic and animal friendly products should be accorded special treatment, including zero duty and other market access privileges. Dispute settlement is an important aspect of all trade agreements.

The settlement of disputes in a timely manner with enforceable rules and procedures, including penalties for non-compliance, provides needed security to parties.

It must be recognized that disputes arising under the provisions of trade agreements are not always commercial in nature. The proposed SAFTA should allow for the settlement of commercial disputes and for disputes concerning environmental or species protection.

The United States should insist that any SAFTA dispute settlement system include provisions for transparency and public participation. In keeping with its recent proposal to the World Trade Organization, the United States should ensure that its proposed free trade agreements provide for transparency and public participation.

Inclusion of these provisions in the proposed SAFTA will help to strengthen the position of the United States at the WTO. Civil society participation and transparency. An open and transparent system of allowing for the participation of civil society will see the development of the SAFTA countries.

The proposed SAFTA should encourage the parties to allow for public participation, including comment periods and hearings conducted by competent authorities.

The United States should offer technical assistance concerning transparency and civil society participation, and encourage public and private partnerships to achieve development and understanding in this area.

The proposed SAFTA has the potential to accomplish much more than just increased trade and greater market access for the United States, Botswana, Lesotho, Namibia, South Africa, and Swaziland. The SAFTA can create an atmosphere where increased trade does not threaten environmental or animal protection measures.

And the proposed SAFTA can help encourage greater transparency and involvement of civil society in the government decision making process of all of the parties. All these objectives should be pursued during the negotiations for the SAFTA. Thank you.

CHAIRPERSON SURO-BREDIE: Thank you for your testimony. Our first question will be by the USTR.

MS. HAMILTON: In your testimony, you said that the parties to the proposed FTA should encourage labeling for all products. Can you elaborate on what you mean by that?

MS. BURR: Sure. I think recently when you talk about labeling, there is this idea that it is eco-labeling or it might be protectious in nature. And that is certainly not what we are advocating. What we are advocating is the use of labels, first and foremost, for consumer information.

Consumers have the right to know what they are purchasing, and how it was produced. And I know that PPMs, the production process methods, are a hot topic in the WTO. But quite frankly it is becoming more consumer driven and consumer demand.

To the extent that countries, developing countries or least-developed countries, undertake environmental friendly, animal friendly, production methods, and are willing to expand organic sectors, those countries should be rewarded for those efforts, and should have greater market access, and the use of labels should help that.

MS. HAMILTON: Are you talking about voluntary or mandator labels?

MS. BURR: I think that at a start that it would have to be voluntary as we are proceeding in the United States, but I believe at some point there needs to be a multi-lateral effort at designing labels and what type of information is included in them so that -- and first and foremost in trade agreements, it is not used as a protectionist measure, but it is used for consumer information and then to promote those goods that consumers want.

CHAIRPERSON SURO-BREDIE: The next question is by the Environmental Protection Agency.

MR. KARHNAK: Thank you. You said a lot and said it very quickly, too, and I think I followed most of it.

MS. BURR: I am sorry about that. I wanted to help out on a Monday afternoon.

MR. KARHNAK: Thank you. We appreciate that. There are two related questions that I would like to ask you. You spoke of severe environmental problems in these countries, and I wonder if you have any m ore information about whether these are problems because of inadequate laws, or problems because of inadequate enforcement, or some other possibility or reason.

MS. BURR: I think they are both, and we have done some research, and I can put them together for you, John, and get that to you.

But I think many times countries at the lower levels of development have tried to increasingly develop and find areas where they can help to try and bring in money, and promote exports, and do things that might not be as sustainable as they otherwise would be.

And I think that free trade agreements should be -- at least the goal of the free trade agreement should not be to encourage exploitation of people or resources, animals. It should be to allow countries to develop in a sustainable way, in a manageable way, that is for the long term good of the particular country, and their environment, animals, and people.

MR. KARHNAK: And related to that of course is that one of our trade promotion authority objectives is to promote sustainability or sustainable development in our trading partners.

Do you have any more specific ideas in terms of how we might be able to work with specific project areas, for example?

MS. BURR: Certainly. I think if you sort of look at the range of non-governmental organizations in the United States and in other countries, different NGOs bring different expertise to the table.

And you need to look at the specific five countries in Southern Africa, and you are also in the midst of a Central America free trade agreement, to determine what types of technical expertise those countries would find the most helpful.

And then try and partner NGOs, private sector, and the governments to work on those things. One thought is that perhaps on customs enforcement, and an NGO like the Humane Society, and maybe the International Fund for Animal Welfare, and other others, could provide technical assistance on these enforcements, such as the Convention on International Trade and Endangered Species of Flora and Fauna.

And how you can recognize endangered species on the list that are illegal to trade, and help them with their customs enforcement that way. So you could do it on a project by project basis.

Or on civil society participation. How to work with civil society. I know that some countries are very wary of working with civil society, especially northern NGOs, or NGOs that think they are trying to impose values, or other things upon them.

And I think it is important to partner with NGOs to see that many NGOs are trying to do their level best to help countries, and to get their message out, but not to impose values or priorities upon them.

MR. KARHNAK: You mentioned IFAW as one example of technical assistance. If you have other examples that would be useful for us, if you could provide them for us.

MS. BURR: Certainly.

MR. KARHNAK: Just a short paragraph or something.

MS. BURR: I would be happy to do so.

MR. KARHNAK: Thank you.

CHAIRPERSON SURO-BREDIE: And again if you could send that to gblue@ustr.com. A last question by

USTR.

MS. HAMILTON: I think you just answered the question, but I have another question.

MS. BURR: Sure.

MS. HAMILTON: Which has to do with NGOs in the region that might be working. Is there anyone who is working with you on these types of issues that might be useful for us to pull into our discussions to talk about some of these environmental and other issues?

MS. BURR: Absolutely. The environmental arm of the Humane Society is called Earth Voice, and we actually have an office on the ground in South Africa, and I believe it is a bit north of Johannesburg -- it is a relatively small town -- working on species protection, CITES enforcement, and those things.

The larger NGOs as I had mentioned before -- and I hate to use the usual suspects, but Greenpeace, and International Fund for Animal Welfare, WWF. Many of these groups have operations on the ground, and so to the extent that there are some in-country NGOs working on these issues, I am not aware of them, but that's because I haven't dug real deep into the issue.

But I would be happy to see if I could put something together for you.

MS. HAMILTON: I would appreciate it. Thank you.

CHAIRPERSON SURO-BREDIE: Department of Labor.

MS. WHITE: You had talked about the way that you could work with NGOs on specific projects, and things like that, to promote sustainable development sort of in the context of an FTA.

And your testimony referred to things like transparency, and public participation. I am interested in the kinds of things that you would see that would be in the agreement per se that would promote sustainable development.

Do you think this would be in the process of things that you talked about, or do you have other ideas of how the agreement itself, as opposed to the supporting technical assistance, would achieve your objectives?

MS. BURR: I think at a minimum if the idea is to support development and sustainable development in these countries, especially in developing in leased-developed countries, there has to be a greater mechanism for civil society to participate, for citizens of the country to believe that they actually have a stake in the outcome of trade negotiations or other international negotiations.

And to your topic, rights of workers to either have meetings, or collective bargaining, and all the rest, there has to be an interaction between civil society and the government. And while that in the United States we take that for granted that you have hearing and Federal Register notices, and all the rest to sort of map out for the public, or at least those paying attention, what you are doing, that is not the case in most developing or least-developed countries.

And so in the agreement itself, there should be a paragraph, if that is all that can be negotiated, encouraging countries to engage in transparent publications of the rules, the procedures, that go on, at least within the context of the free trade agreement, and calls for hearings, and public participation as the negotiations go forward.

And then in the text of the negotiations itself, and I think that would do a great deal to help countries alleviate the fear they have of participation in civil society, and would also alleviate the feeling that civil society has that it doesn't have a stake in the outcome.

MS. WHITE: And so in these processes, the outcome would be better in terms of sustainable development or labor standards?

MS. BURR: I think that whenever the public feels that it is being listened to, that it is being engaged, and that it has an actual stake in the outcome, then there is a greater chance that the measures taken to implement the trade agreement will be sustainable because it is not imposed by a government upon its people.

It is going to be a collaborative process, and I think when it comes to environment, and labor, and other issues, an understanding of what can be achieved in a free trade agreement, but also the way you get there, that you do need to take into account environmental issues and that you do need to take into account how you can promote agriculture in a sustainable way.

And do that in constructive dialogue with society will make the outcome better, and it will make the enforcement of the agreement and the implementation of the agreement much better than it otherwise would be.

MR. MOORE: You mentioned some of the environmental problems that your organization sees in this part of the world. And of course you know that some of the South African countries are actually quite poor relative to even some of the neighbors in that region, which itself creates incentives for some of the practices that can cause some of these environmental problems.

And I wonder as you are seeking to work with governments, with civil society, and developing countries, how do you make the case for some of the production practices that are environmentally sustainable in that part of the world?

How do you connect these good environmental practices with the legitimate development concerns that countries like this have?

MS. BURR: Well, I will give you a particular example. The idea of factory farming, and intensive farming, and the problems that brings. And problems with contamination of water, and soil, air, and diseases brought on by the massive waste that comes from factory farming enterprises.

Most developing and least-developed countries, at least currently, don't employ those. They are historic and I guess historic and some of it is indigenous farming practices, are actually very environmentally sustainable.

It is the belief I believe that is being manifested through trade agreements that they have to adopt the practices of the United States, and of Europe, in order to compete in the agricultural sector. And if they do that, that brings about a lot of the unsustainable activities.

And some of the countries in pushing for certain types of development have opened the door to unsustainable practices. And that is one reason that I asked for labeling and encouragement of practices that don't bring that aspect into it, and that promote the use of environmentally friendly and animal friendly products.

That they can get special market access and they can be promoted in the manner that they should be, and hopefully that will break the cycle.

CHAIRPERSON SURO-BREDIE: Thank you very much.

MS. BURR: Thank you.

CHAIRPERSON SURO-BREDIE: This hearing is adjourned.

(Whereupon, at 3:55 p.m., the hearing was concluded.)